

reconsideration and are administratively final.

#### § 780.13 Verbatim transcripts.

(a) Appellants and their representatives are precluded from making any electronic recording of any portion of a hearing or other proceeding conducted in accordance with this part. Appellants interested in obtaining an official recording of a hearing or other proceeding may request a verbatim transcript in accordance with paragraph (b) of this section.

(b) Any party to an appeal or request for reconsideration under this part may request that a verbatim transcript be made of the hearing proceedings and that such transcript be made the official record of the hearing. The party requesting a verbatim transcript shall pay for the transcription service, provide a copy of the transcript to FSA free of charge, and allow any other party in the proceeding desiring to purchase a copy of the transcript to order it from the transcription service.

#### § 780.14 [Reserved]

#### § 780.15 Time limitations.

(a) To the extent practicable, no later than 10 business days after an agency decision maker renders an adverse decision that affects a participant, FSA will provide the participant written notice of the adverse decision and available appeal rights.

(b) A participant requesting an appealability review by the State Executive Director of an agency decision made at the county, area, district or State level that is otherwise determined by FSA not to be appealable must submit a written request for an appealability review to the State Executive Director that is received no later than 30 calendar days from the date a participant receives written notice of the decision.

(c) A participant requesting reconsideration, mediation or appeal must submit a written request as instructed in the notice of decision that is received no later than 30 calendar days from the date a participant receives written notice of the decision.

(d) Notwithstanding the time limits in paragraphs (b) and (c) of this section, a request for an appealability review, reconsideration, or appeal may be accepted if, in the judgment of the reviewing authority with whom such request is filed, exceptional circumstances warrant such action. A participant does not have the right to see an exception under this paragraph. FSA's refusal to accept an untimely request is not appealable.

(e) Decisions appealable under this part are final unless review options available under this part or part 11 are timely exercised.

(1) Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the pertinent FSA office is not open for the transaction of business during normal working hours, the time for submission of a request will be extended to the close of business on the next working day.

(2) The date when an adverse decision or other notice pursuant to these rules is deemed received is the earlier of physical delivery by hand, by facsimile with electronic confirmation of receipt, actual stamped record of receipt on a transmitted document, or 7 calendar days following deposit for delivery by regular mail.

#### § 780.16 Implementation of final agency decisions.

To the extent practicable, no later than 30 calendar days after an agency decision becomes a final administrative decision of USDA, FSA will implement the decision.

#### § 780.17 Judicial review.

(a) Decisions of the Administrator in appeals under this part from Agriculture Foreign Investment Disclosure Act penalties are administratively final decisions of USDA.

(b) The decision of a State Executive Director or State Conservationist on equitable relief made under § 718.307 of this title is administratively final and also not subject to judicial review.

Signed at Washington, DC, on July 7, 2005.

**James R. Little,**

*Administrator, Farm Service Agency.*

[FR Doc. 05-14767 Filed 7-26-05; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 981

[Docket No. FV05-981-2 FR]

#### Almonds Grown in California; Increased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Almond Board of California (Board) for the 2005-06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds received. Of the \$0.030 per

pound assessment, 60 percent (or \$0.018 per pound) will be available as credit-back for handlers who conduct their own promotional activities. The Board locally administers the marketing order which regulates the handling of almonds grown in California. Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** July 28, 2005.

#### FOR FURTHER INFORMATION CONTACT:

California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, 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.

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 Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California almond handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable almonds beginning August 1, 2005, 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 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. Such 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 increases the assessment rate established for the Board for the 2005–06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds received. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) will be available as credit-back for handlers who conduct their own promotional activities.

The order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California almonds. They are familiar with the Board's needs and with the costs for 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 2004–05 and subsequent crop years, the Board recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of \$28,756,000. In comparison, last year's budgeted expenditures were \$24,077,344. The recommended assessment rate of \$0.030 is \$0.005 higher than the rate in effect for the 2004–05 crop year, and the credit-back portion of the assessment rate (\$0.018 per pound) is \$0.004 more

than the 2004–05 credit-back portion currently in effect.

The major expenditures recommended by the Board for the 2005–06 crop year include \$15,423,000 for domestic advertising, market research, and public relations; \$4,920,000 for operational expenses; \$4,873,000 for international public relations and other promotion and education programs, including a Market Access Program (MAP) administered by USDA's Foreign Agricultural Service (FAS); \$1,200,000 for nutrition research; \$850,000 for production research; \$830,000 for food quality programs; and \$500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were \$12,540,000 for domestic advertising, market research, and public relations; \$3,611,981 for operational expenses; \$4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$947,321 for production research; \$858,000 for food quality programs; and \$460,042 for environmental research, plus other minor sums.

The Board recommended increasing the assessment rate from \$0.025 per pound to \$0.030 per pound of almonds handled. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) will be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval. The increased assessment rate is needed because the 2005–06 crop is projected at 816 million pounds of assessable almonds, down from the 1.0368 billion pound 2004–05 crop, and projected assessment revenue will likely be reduced. The increased rate should generate adequate revenue to fund the Board's 2005–06 budgeted expenses and to maintain a small financial reserve. Section 981.81(c) authorizes a financial reserve of approximately one-half year's budgeted expenses. One-half of the 2005–06 crop year's budgeted expenses of \$28,756,000 equals \$14,378,000. The Board's financial reserve at the end of the 2005–06 crop year is projected to be \$1.1 million which is well within the authorized reserve.

The assessment rate recommended by the Board was derived by considering anticipated expenses and production levels of California almonds, and additional pertinent factors. In its recommendation, the Board utilized an estimate of 816 million pounds of assessable almonds for the 2005–06 crop year. If realized, this will provide

estimated assessment revenue of \$9,792,000 from all handlers, and an additional \$9,180,000 from those handlers who do not participate in the credit-back program, for a total of \$18,972,000. In addition, it is anticipated that \$10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources should be adequate to cover budgeted expenses. Any unexpended funds from the 2005–06 crop year may be carried over to cover expenses during the succeeding crop year. Funds in the reserve at the end of the 2005–06 crop year are estimated to be approximately \$1.1 million which would be within the amount permitted by the order.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate will be in effect for an indefinite period, the Board will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2005–06 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by USDA.

#### **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 rule 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 6,000 producers of almonds in the production area and approximately 115 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (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 \$6,000,000.

Data for the most recently completed crop year indicates that about 48 percent of the handlers shipped over \$6,000,000 worth of almonds and about 52 percent of handlers shipped under \$6,000,000 worth of almonds. In addition, based on production and grower price data reported by the California Agricultural Statistics Service (CASS), and the total number of almond growers, the average annual grower revenue is estimated to be approximately \$261,248. Based on the foregoing, the majority of handlers and producers of almonds may be classified as small entities.

This rule increases the assessment rate established for the Board and collected from handlers for the 2005–06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) will be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of \$28,756,000 and an assessment rate of \$0.030 per pound. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) will be available as credit-back for handlers who conduct their own promotional activities. The assessment rate of \$0.030 will be \$0.005 higher than the current rate, and the credit-back portion of \$0.018 per pound will be \$0.004 more than the 2004–05 credit-back portion. The quantity of assessable almonds for the 2005–06 crop year is estimated at 816,000,000 pounds. The assessment rate will provide estimated assessment revenue of \$9,792,000 from all handlers, and an additional \$9,180,000 from those handlers who do not participate in the credit-back program, for a total of \$18,972,000. In addition, it is anticipated that \$10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources should be adequate to cover budgeted expenses. The projected financial

reserve at the end of 2005–06 should be \$1,137,797 which would be within the maximum permitted under the order.

The major expenditures recommended by the Board for the 2005–06 crop year include \$15,423,000 for domestic advertising, market research, and public relations; \$4,920,000 for operational expenses; \$4,873,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$850,000 for production research; \$830,000 for food quality programs; and \$500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were \$12,540,000 for domestic advertising, market research, and public relations; \$3,611,981 for operational expenses; \$4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$947,321 for production research; \$858,000 for food quality programs; and \$460,042 for environmental research, plus other minor sums.

The Board considered alternative assessment rate levels, including the portion available for handler credit-back. After deliberating the issue, the Board recommended increasing the assessment rate to \$0.030 per pound, with 60 percent (or \$0.018 per pound) available for handler credit-back. In arriving at its budget, the Board considered information from its various committees. Alternative expenditure levels were discussed by these groups, based on the value of various activities to the industry. The committees ultimately recommended appropriate activities and funding levels, which were adopted by the Board.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the average grower price for the 2005–06 season could range between \$3.00 and \$3.50 per pound of almonds. Therefore, the estimated assessment revenue for the 2005–06 crop year (disregarding any amounts credited pursuant to §§ 981.41 and 981.441) as a percentage of total grower revenue could range between 1.00 and 0.86 percent, respectively.

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 would be offset by the benefits derived

by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the California almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the May 12, 2005, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California almond 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.

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

A proposed rule concerning this action was published in the **Federal Register** on June 17, 2005 (70 FR 35182). Copies of the proposed rule were also mailed or sent via facsimile to all almond handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the **Federal Register**. A 10-day comment period ending June 27, 2005, was provided for interested persons to respond to the proposal. A comment was received that supported the proposal, while another response was not relevant to the proposal. Accordingly, no changes were made to the rule, based on the comments 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 information and recommendation submitted by the Board 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: (1) The 2005–06 crop year begins on August 1, 2005, and the order requires that the rate of assessment for

each crop year apply to all assessable almonds handled during such crop year; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) a 10-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

#### PART 981—ALMONDS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 981 continues to read as follows:

*Authority:* 7 U.S.C. 601–674.

■ 2. Section 981.343 is revised to read as follows:

##### § 981.343 Assessment rate.

On and after August 1, 2005, an assessment rate of \$0.030 per pound is established for California almonds. Of the \$0.030 assessment rate, 60 percent per assessable pound is available for handler credit-back.

Dated: July 21, 2005.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 05–14770 Filed 7–26–05; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. CE229, Special Condition 23–168–SC]

#### Special Conditions; Duncan Aviation Inc., EFIS on the Raytheon 300 King Air; Protection of Systems for High Intensity Radiated Fields (HIRF)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments; correction.

**SUMMARY:** The FAA published a document on June 22, 2005 concerning final special conditions for Duncan Aviation Inc., on the Raytheon Model 300 King Air. There was an error in the

preamble of the special conditions in the reference to the docket number. The correct document number appears in the addresses section in one place; however, the docket number is incorrect in the heading, in one other location in the address, and in the “Comments Invited” section. This document contains a correction to the docket number.

**DATES:** The effective date of these special conditions is June 15, 2005. Comments must be received on or before July 22, 2005.

**ADDRESSES:** Comments may be mailed in duplicate to: Federal Aviation Administration, Regional Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. CE229, Room 506, 901 Locust, Kansas City, Missouri 64106. All comments must be marked: Docket No. CE229. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Wes Ryan, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4127.

#### SUPPLEMENTARY INFORMATION:

##### Need for Correction

The FAA published a document on June 22, 2005 (70 FR 35985) that issued final special conditions with a request for comments. In the document under the heading, in the “Addresses” section, and in the “Comments Invited” section, the docket number “229” appears. The correct docket number is “CE229.” This document corrects that error.

##### Correction of Publication

Accordingly, the preamble of the special conditions is revised to remove the docket number “229” and to replace it with “CE229” wherever it appears.

##### Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report

summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: “Comments to Docket No. CE229.” The postcard will be date stamped and returned to the commenter.

Issued in Kansas City, Missouri on July 14, 2005.

**John Colomy,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05–14763 Filed 7–26–05; 8:45 am]

BILLING CODE 4910–13–P

## FEDERAL TRADE COMMISSION

### 16 CFR Part 310

RIN 3084–0098

#### Telemarketing Sales Rule Fees

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (the “Commission” or “FTC”) is issuing this Final Rule to amend the FTC’s Telemarketing Sales Rule (“TSR”) by revising the fees charged to entities accessing the National Do Not Call Registry (“the Registry”).

**DATES:** *Effective date:* The amendment to § 310.8 (“the Fee Rule”) will become effective September 1, 2005.

**ADDRESSES:** Requests for copies of this Final Fee Rule should be sent to: Public Reference Branch, Federal Trade Commission, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The complete public record of this proceeding is also available at that address, and on the Internet at: <http://www.ftc.gov/bcp/rulemaking/tsr/tsrrulemaking/index.htm>.

**FOR FURTHER INFORMATION CONTACT:** David B. Robbins, (202) 326–3747, Division of Planning & Information, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The amended rule increases the annual fee for each area code of data to \$56.00 per area code, or \$28.00 per area code of data during the second six months of an entity’s annual subscription period. The maximum amount that would be charged to any single entity for