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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Docket No. AMS–FV–07–0029; FV07–925–2 PR]

Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Desert Grape Administrative Committee (committee) for the 2007 and subsequent fiscal periods from $0.0175 to $0.0200 per 18-pound lug of grapes handled. The committee locally administers the marketing order, which regulates the handling of grapes grown in a designated area of southeastern California. Assessments upon desert grape handlers are used by the committee to fund reasonable and necessary expenses of the program. The fiscal period began January 1 and ends December 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by June 4, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Program Analyst, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Toni.Sasselli@usda.gov* or *Kurt.Kimmel@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.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 925, both as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern 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 grape handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable grapes beginning on January 1, 2007, 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 would increase the assessment rate established for the committee for the 2007 and subsequent fiscal periods from $0.0175 to $0.0200 per 18-pound lug of grapes.

The California grape marketing order provides authority for the committee, 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 committee are producers and handlers of California grapes. They are familiar with the committee'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 2005 and subsequent fiscal periods, the committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on February 6, 2007, and unanimously recommended expenditures of $160,768 and an assessment rate of $0.0200 per 18-pound lug of grapes for the 2007 fiscal period. In comparison, last year's budgeted expenditures were $131,318. The assessment rate of $0.0200 is $0.0025 higher than the rate currently in effect. The increased assessment rate is needed to permit the committee to fund a research project on Vineyard Mealy Bugs and to ensure that an adequate carryover of reserve funds is available for the 2008 fiscal year.

The major expenditures recommended by the committee for the 2007 fiscal period include $18,000 for research, $5,000 for compliance activities, $109,068 for salaries and payroll expenses, and $28,700 for other expenses. In comparison, budgeted expenses for these items in 2006 were $5,000 for compliance activities, $103,668 for salaries and payroll expenses, and $22,650 for other expenses. The committee did not budget for research projects in 2006.

The assessment rate recommended by the committee was derived by subtracting the committee's total available funds from their anticipated 2007 expenses and dividing the remainder by the estimated 2007 shipments. The total anticipated 2007 expenses are $160,768, and the desired ending reserve is $39,432. The available carry-in funds are $70,000, and the anticipated interest income is $200. The 2007 estimated shipments are 6.5 million 18-pound lugs.

Based on this calculation, (($160,768 + $39,432) − ($70,000 + $200)) ÷ (6.5 million = $0.0200, the $0.0200 assessment rate would provide sufficient funds to meet anticipated expenses of $160,768 and would allow for an adequate December 2007 ending reserve of $39,432. Thus, the December 2007 ending reserve would be kept within the maximum permitted by the order, approximately one fiscal period's expenses, as required under § 925.41 of the order. It would also be adequate to cover early-season (2008) expenses before assessment income is received.

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

Although this assessment rate would be in effect for an indefinite period, the committee would 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The committee's 2007 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial 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 initial 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 50 producers of grapes in the production area and approximately 20 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts less than $750,000 and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

Last year, six of the 20 handlers subject to regulation had annual grape sales of at least $6,500,000. In addition, 10 of the 50 producers had annual sales of at least $750,000. Therefore, a majority of handlers and producers may be classified as small entities.

This rule would increase the assessment rate established for the committee and collected from handlers for the 2007 and subsequent fiscal periods from $0.0175 to $0.0200 per 18-pound lug of grapes. The committee unanimously recommended expenditures of $160,768 and an assessment rate of $0.0200 per 18-pound lug of grapes for the 2007 fiscal period. The proposed assessment rate of $0.0200 is $0.0025 higher than the 2006 rate. The number of assessable grapes is estimated at 6.5 million 18-pound lugs. Thus, the $0.0200 rate should provide $130,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the committee's authorized carry-in reserve should be adequate to cover budgeted expenses.

The major expenditures recommended by the committee for the 2007 fiscal period include $18,000 for research, $5,000 for compliance activities, $109,068 for salaries and payroll expenses, and $28,700 for other expenses. In comparison, budgeted expenses for these items in 2006 were $5,000 for compliance activities, $103,668 for salaries and payroll expenses, and $22,650 for other expenses. The committee did not budget for research projects in 2006.

The committee reviewed and unanimously recommended 2007 expenditures of $160,768, which included an increase due to a new research project. Prior to arriving at this budget, the committee considered alternative expenditure and assessment rate levels, but ultimately decided that the recommended levels were reasonable to properly administer the order.

The assessment rate recommended by the committee was derived by the following formula: Anticipated expenses ($160,768) plus desired 2007 ending reserve ($39,432), minus the 2007 beginning reserve ($70,000) and the anticipated interest income ($200), divided by total shipments (6.5 million 18-pound lugs), equals the recommended assessment rate ($0.0200 per 18-pound lug).

This rate would provide sufficient funds in combination with interest and reserve funds to meet the anticipated expenses of $160,768 and result in a December 2007 ending reserve of $39,432, which is acceptable to the committee. Thus, the December 2007 ending reserve would be kept within the maximum permitted by the order, approximately one fiscal period's expense, as required under § 925.41 of the order.

A review of historical information and preliminary information pertaining to the 2007 fiscal period indicates that the on-vine grower price for the season could range between $5.00 and $9.00 per 18-pound lug of grapes. Therefore, the estimated assessment revenue for the 2007 fiscal period as a percentage of total grower revenue could range between 0.2 and 0.4 percent.

This action would increase 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 committee's meeting was widely publicized throughout the grape production area and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the February 6, 2007, 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 proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California grape 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 AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

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.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2007 fiscal period began on January 1, 2007, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such period; (2) the industry could be shipping grapes beginning April 20, 2007; (3) the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (4) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

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

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2007, an assessment rate of $0.0200 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: April 27, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–8458 Filed 5–2–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AMS–FV–06–0186; FV06–930–610 REVIEW]

Tart Cherries Grown in the States of Michigan, et al.; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 930 regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or e-mail: *moab.docketclerk@usda.gov.* The review may also be viewed online at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; Telephone: (301) 734–5243, Fax: (301) 734–5275; or E-mail: *Patricia.Petrella@usda.gov* or *Kenneth.Johnson@usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order 930, as amended (7 CFR part 930), regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674).

The tart cherry marketing order establishes the Cherry Industry Administrative Board (Board) as the administrative body charged with overseeing program operations. Staff is hired to conduct the daily administration of the program. The Board consists of 18 producer and handler members, plus one member who represents the public. There are seven grower members and seven handler members, and four members that can be either growers or handlers. Each member has an alternate. Members and alternate members are elected through a mail balloting process.

Currently, there are approximately 900 tart cherry growers and approximately 40 handlers. The majority of the growers and handlers may be classified as small entities. The regulations implemented under the order are applied uniformly to all size entities, and are designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** (64 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order 930, under criteria contained in section 610 of the RFA (5 U.S.C. 601–612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the tart cherry marketing order in the February 21, 2006, issue of the **Federal Register** (71 FR 8810). The deadline for comments ended April 24, 2006. No comments were received.

The review was undertaken to determine whether the tart cherry marketing order should be continued without change, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the marketing order; (2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

The marketing order authorizes the following activities: Volume control in the form of free and restricted percentages and establishment of a reserve pool; production and processing