Rules and Regulations

Federal Register

Vol. 71, No. 21

Wednesday, February 1, 2006

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV06–905–1 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the Citrus Administrative Committee (Committee) for the 2005–06 and subsequent fiscal periods from $0.006 to $0.008 per 4⁄5 bushel carton of oranges, grapefruit, tangerines, and tangelos handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Assessments upon Florida citrus handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: February 2, 2006. Comments received by April 3, 2006, will be considered prior to issuance of a final rule.

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; E-mail: *moab.docketclerk@usda.gov*; 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.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; telephone: (863) 324–3375, Fax: (863) 325–8793; 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*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 Committee for the 2005–06 and subsequent fiscal periods from $0.006 per 4⁄5 bushel carton to $0.008 per 4⁄5 bushel carton of oranges, grapefruit, tangerines, and tangelos grown in Florida.

The Florida citrus 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 oranges, grapefruit, tangerines, and tangelos. 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 2003–04 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 December 16, 2005, and unanimously recommended

2005–06 expenditures of $209,000 and an assessment rate of $0.008 per 4⁄5 bushel of oranges, grapefruit, tangerines, and tangelos grown in Florida based on a crop estimate of 24 million 4⁄5 bushels. In comparison, last year's budgeted expenditures were $300,000. The recommended assessment rate is $0.002 higher than the $0.006 rate currently in effect.

The Committee originally met May 10, 2005, and recommended a budget of $220,000 and that the assessment rate be maintained at $0.006. The Committee had anticipated reduced shipments due to the lingering effects from the hurricanes the industry experienced during the 2004–05 season. However, in October 2005, the industry experienced additional crop loss due to the effects of Hurricane Wilma. Assessable cartons for 2005–06 are now estimated to be 24 million, down from the 36 million originally estimated for the season. Further, the new estimate is close to 28 million cartons under shipments for the 2003–04 season, the most recent season not impacted by hurricanes. Consequently, it is necessary to increase the assessment rate.

The major expenditures recommended by the Committee for the 2005–06 fiscal year include $106,150 for salaries, $25,000 for Manifests–USDA–FDACS, $16,700 for retirement plan, $14,550 for insurance and bonds, and $8,250 for payroll taxes. Budgeted expenses for these items in 2004–05 were $131,000, $25,000, $20,500, $21,000, and $10,600, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of oranges, grapefruit, tangerines, and tangelos. As mentioned earlier, Florida citrus shipments for the year are estimated at 24 million 4⁄5 bushels, which should provide $192,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve currently total approximately $30,000 and are within the maximum permitted by the order of not to exceed one half of one fiscal period's expenses as stated in § 905.42(a).

The assessment rate established in this rule will 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 will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2005–06 budget and those for subsequent fiscal periods will 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 8,500 producers of oranges, grapefruit, tangerines, and tangelos in the production area and approximately 75 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida citrus during the 2004–05 season was approximately $11.54 per 4⁄5 bushel carton, and total fresh shipments for the 2004–05 season were approximately 30.2 million cartons of citrus. Using the average f.o.b. price, at least 70 percent of the Florida citrus handlers could be considered small businesses under SBA's definition. In addition, based on production and grower prices reported by the National Agricultural Statistics Service, and the total number of Florida citrus growers, the average annual grower revenue is approximately $87,600. In view of the foregoing, it can be concluded that the majority of handlers and producers of Florida citrus may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2005–06 and subsequent fiscal periods from $0.006 to $0.008 per 4⁄5 bushel carton of oranges, grapefruit, tangerines, and tangelos. The Committee unanimously recommended 2005–06 expenditures of $209,000 and an assessment rate of $0.008 per 4⁄5 bushel carton. The recommended assessment rate is $0.002 higher than the rate now in effect. The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2005–06 season is estimated at 24 million 4⁄5 bushel cartons. Thus, the $0.008 rate should provide $192,000 in assessment income. Income derived from handler assessments, along with interest income, and funds from the Committee's reserve will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2005–06 fiscal year include $106,150 for salaries, $25,000 for Manifests–USDA–FDACS, $16,700 for retirement plan, $14,550 for insurance and bonds, and $8,250 for payroll taxes. Budgeted expenses for these items in 2004–05 were $131,000, $25,000, $20,500, $21,000, and $10,600, respectively.

The Committee originally met May 10, 2005, and recommended a budget of $220,000 and that the assessment rate be maintained at $0.006. The Committee had anticipated reduced shipments due to the lingering effects from the hurricanes the industry experienced during the 2004–05 season. However, in October 2005, the industry experienced additional crop loss due to the effects of Hurricane Wilma. Assessable cartons for 2005–06 are now estimated to be 24 million, down from the 36 million originally estimated for the season. Further, the new estimate is close to 28 million cartons under shipments for the 2003–04 season, the most recent season not impacted by hurricanes. Consequently, it is necessary to increase the assessment rate to meet 2005–06 budget requirements.

The Committee reviewed and unanimously recommended 2005–06 expenditures of $209,000. Prior to arriving at this budget, the Committee considered information from various sources including the Committee's Budget Subcommittee. Alternative assessment rates were discussed based on different estimates of assessable cartons and budget expenses. The assessment rate of $0.008 per 4⁄5 bushel carton of assessable oranges, grapefruit, tangerines, and tangelos was then determined by dividing the total recommended budget by the quantity of assessable Florida citrus, estimated at 24 million 4/5 bushel cartons for the 2005–06 season taking into consideration the availability of reserve funds and interest income. This assessment rate will yield approximately $17,000 under anticipated budgeted expenses with the deficit funds to be drawn from reserves and interest income.

A review of historical information and preliminary information pertaining to the upcoming 2005–06 fiscal period indicates that the grower price for the 2005–06 season could range between $1.23 and $7.18 per 4/5 bushel of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2005–06 fiscal period as a percentage of total grower revenue could range between .11 and .65 percent.

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 Committee's meeting was widely publicized throughout the Florida citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 16, 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 action imposes no additional reporting or recordkeeping requirements on either small or large Florida citrus 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 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 Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon 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 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 fiscal period began August 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Florida citrus handled during such fiscal period; (2) the Committee 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 Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Oranges, Tangelos, Tangerines, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 905.235 is revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 2005, an assessment rate of $0.008 per 4/5 bushel carton or equivalent is established for Florida citrus covered under the order.

Dated: January 27, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–947 Filed 1–30–06; 9:06 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23716; Directorate Identifier 2006–NM–008–AD; Amendment 39–14466; AD 2006–03–02]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 and Falcon 2000EX Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Model Falcon 2000 and Falcon 2000EX airplanes. For all airplanes, this AD requires, among other actions, doing an inspection for damage of the feeder cables, and corrective actions if necessary; and installing a protective plate on the feeder cables. For certain airplanes, this AD also requires re-routing the wiring on the cockpit protector; drilling holes in the cockpit protector; and clamping the feeder cables; as applicable. This AD results from a drawing review and further associated inspections that highlighted a potential chafing risk between the third crew member's oxygen mask box and feeder cables routed in the area. We are issuing this AD to prevent chafing between the subject oxygen mask box and the adjacent feeder cables, which could generate smoke or fire in the cockpit that could be fanned by oxygen leakage from the oxygen mask box.

DATES: This AD becomes effective February 16, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 16, 2006.

We must receive comments on this AD by April 3, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.