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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 905

[Docket No. FV03–905–4 PR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Citrus Administrative Committee (Committee) for the 2003–04 and subsequent fiscal periods from $0.005 to $0.006 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. Authorization to assess Florida citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 27, 2003.

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 E-mail: *moab.docketclerk@usda.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: William G. Pimental, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884–1671; 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 would be applicable to all assessable oranges, grapefruit, tangerines, and tangelos grown in Florida, beginning August 1, 2003, 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 2003–04 and subsequent fiscal periods from $0.005 per 4⁄5 bushel carton to $0.006 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 2001–02 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 July 1, 2003, and unanimously recommended 2003–04 expenditures of $247,000 and an assessment rate of $0.006 per 4⁄5 bushel of oranges, grapefruit, tangerines, and tangelos grown in Florida based on a crop estimate of 45 million 4⁄5 bushels.

In comparison, last year's budgeted expenditures were $250,700. The assessment rate of $0.006 is $0.001 higher than the $0.005 rate currently in effect. This increase reflects the Committee's expectation of lower shipments in the coming year resulting in less assessment income to cover expenses. In addition, the Committee would like to increase the monies available in their reserve fund.

The major expenditures recommended by the Committee for the 2003–04 fiscal year include $126,000 for salaries, $25,000 for Manifests-USDA–FDACS, $21,000 for insurance and bonds, $19,500 for retirement plan, and $10,100 for payroll taxes. Budgeted expenses for these items in 2002–03 were $126,000, $25,000, $21,000, $19,500, and $10,100, 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 45 million ⅘ bushels, which should provide $270,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve currently total approximately $23,091 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 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 2003–04 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 11,000 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 (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on industry and Committee data, the average annual f.o.b. price for fresh Florida oranges, grapefruit, tangerines, and tangelos during the 2002–03 season was approximately $8.55 per ⅘ bushel carton, and total fresh shipments for the 2003–04 season are estimated at 45 million cartons of oranges, grapefruit, tangerines, and tangelos. Approximately 20 handlers handled 65 percent of Florida's citrus shipments in 2002–03. Considering the average f.o.b. price, at least 55 percent of the oranges, grapefruit, tangerine, and tangelo handlers could be considered small businesses under SBA's definition. Therefore, the majority of Florida citrus handlers may be classified as small entities. The majority of Florida citrus producers may also be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent fiscal periods from $0.005 to $0.006 per ⅘ bushel carton of oranges, grapefruit, tangerines, and tangelos. The Committee unanimously recommended 2003–04 expenditures of $247,000 and an assessment rate of $0.006 per ⅘ bushel carton. The assessment rate of $0.006 is $0.001 higher than the rate now in effect. The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2003–04 season is estimated at 45 million ⅘ bushel cartons. Thus, the $0.006 rate should provide $270,000 in assessment income and would be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2003–04 year include $126,000 for salaries, $25,000 for Manifests-USDA–FDACS, $21,000 for insurance and bonds, $19,500 for retirement plan, and $10,100 for payroll taxes. Budgeted expenses for these items in 2002–03 were $126,000, $25,000, $21,000, $19,500, and $10,100 respectively.

The proposed increase in the assessment rate is due to the Committee's expectation that shipments in the coming year will be lower affecting assessment income. The Committee would also like to replenish its reserve fund.

The Committee reviewed and unanimously recommended 2003–04 expenditures of $247,000. 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 $0.006 per ⅘ bushel carton of assessable oranges, grapefruit, tangerines, and tangelos was then determined by dividing the total recommended budget by the quantity of assessable commodity, estimated at 45 million ⅘ bushel cartons for the 2003–04 season taking into consideration the need for additional funds to increase reserves. This assessment rate would yield approximately $23,000 over anticipated budgeted expenses with the excess funds to be earmarked for the reserve fund.

A review of historical information and preliminary information pertaining to the upcoming 2003–04 fiscal period indicates that the grower price for the 2003–04 season could range between $1.80 and $20.40 per ⅘ bushel of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between .03 and .33 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 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 July 1, 2003, 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 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.

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 2003–04 fiscal period began August 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable citrus fruit handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (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.

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 proposed to be 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, 2003, an assessment rate of $0.006 per 4⁄5 bushel carton or equivalent is established for assessable Florida citrus covered under the order.

Dated: July 23, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 03–19129 Filed 7–25–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV03–948–2 PR]

Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would reinstate the continuing assessment rate established for the Area No. 3 Colorado Potato Administrative Committee (Committee) for the 2003–2004 and subsequent fiscal periods at $0.03 per hundredweight of potatoes handled. The Committee locally administers the marketing order regulating the handling of potatoes grown in northern Colorado. The continuing assessment rate was suspended for the 2001–2002 and subsequent fiscal periods to bring the monetary reserve within the program limit of two fiscal periods' operating expenses. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 12, 2003.

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 e-mail: *moab.docketclerk@usda.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: Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; 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. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of potatoes grown in Colorado, 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, Colorado potato 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 potatoes beginning on July 1, 2003, 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