

**PART 412—PUBLIC INFORMATION—
FREEDOM OF INFORMATION**

Sec.

- 412.1 General statement.
- 412.2 Public inspection and copying.
- 412.3 Index.
- 412.4 Requests for records.
- 412.5 Appeals.
- 412.6 Timing of responses to requests.

Authority: 5 U.S.C. 552 and 7 U.S.C. 1506.

§ 412.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture published at 7 CFR 1.1–1.23, and appendix A, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, and the Risk Management Agency (RMA) govern availability of records of the Federal Crop Insurance Corporation (FCIC) as administration of the crop insurance program for FCIC.

§ 412.2 Public inspection and copying.

(a) Members of the public may request access to the information specified in § 412.2(d) for inspection and copying.

(b) To obtain access to specified information, the public should submit a written request, in accordance with 7 CFR 1.6, to the Appeals, Litigation and Legal Liaison Staff, Risk Management Agency, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0807, room 6618–S, Washington, DC, 20250–0807, from 9:00 a.m.—4:00 p.m., EDT Monday through Friday, except holidays.

(c) When the information requested is not located at the office of the Appeals, Litigation and Legal Liaison Staff, the Appeals, Litigation and Legal Liaison Staff will direct the request to the appropriate office where the information can be obtained. The requester will be informed that the request has been forwarded to the appropriate office.

(d) FCIC will make available for inspection and copying, unless otherwise exempt from publication under sections 552(a)(2)(C) and 552(b):

(1) Final opinions, including concurring and dissenting opinions and orders made in the adjudication of cases; and

(2) Those statements of policy and interpretations that have been adopted by FCIC and RMA and are not published in the **Federal Register**; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

§ 412.3 Index.

5 U.S.C. 552(a)(2) requires that each agency publish, or otherwise make

available, a current index of all materials available for public inspection and copying. RMA and FCIC will maintain a current index providing identifying information for the public as to any material issued, adopted, or promulgated by the Agency since July 4, 1967, and required by section 552(a)(2). Pursuant to the Freedom of Information Act provisions, RMA and FCIC have determined that in view of the small number of public requests for such index, publication of such an index would be unnecessary and impracticable. Copies of the index will be available upon request in person or by mail at the address stated in § 412.2(b).

§ 412.4 Requests for records.

The Director of the Appeals, Litigation and Legal Liaison staff, RMA located at the above stated address, is the person authorized to receive Freedom of Information Act and to determine whether to grant or deny such requests in accordance with 7 CFR 1.8.

§ 412.5 Appeals.

Any person whose request under § 412.4 is denied shall have the right to appeal such denial. This appeal shall be submitted in accordance with 7 CFR 1.13 and addressed to the Manager, Federal Crop Insurance Corporation, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0807, room 6618–S, Washington, DC, 20250–0807.

§ 412.6 Timing of responses to requests.

(a) In general, FCIC will respond to requests according to their order of receipt.

(b) Existing responsive documents or information may be maintained in RMA's field offices. Therefore, extra time may be necessary to search and collect the documents.

Signed in Washington, D. C. on December 22, 1997.

Robert Prchal,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–33828 Filed 12–29–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 959**

[Docket No. FV98–959–1 IFR]

**Onions Grown in South Texas;
Decreased Assessment Rate**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the South Texas Onion Committee (Committee) under Marketing Order No. 959 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess Texas onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal period began August 1 and ends July 31. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective December 31, 1997. Comments received by March 2, 1998, 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 in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. 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.

FOR FURTHER INFORMATION CONTACT: Cynthia Cavazos or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942 or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box

96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order are 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 (Department) 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, South Texas onion 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 onions beginning August 1, 1997, and continuing 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 the Secretary 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 the Secretary 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 the Secretary'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 decreases the assessment rate established for the Committee for the 1997-98 and subsequent fiscal periods from \$0.07 to \$0.05 per 50-pound container or equivalent.

The Texas onion marketing order provides authority for the Committee, with the approval of the Department, 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 South Texas onions. They are familiar with the Committee's needs and with the costs of 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 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a telephone vote, unanimously recommended 1997-98 administrative expenses of \$100,000 for personnel, office, and the travel portion of the compliance budget. These expenses were approved in July 1997. The assessment rate and funding for research and promotion projects, and the road guard station maintenance portion of the compliance budget were to be recommended at a later Committee meeting.

The Committee subsequently met on November 6, 1997, and unanimously recommended 1997-98 expenditures of \$245,000 and an assessment rate of \$0.05 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were \$448,000. The assessment rate of \$0.05 is \$0.02 less than the rate currently in effect. The Committee voted to lower its assessment rate and use more of the reserve to cover its expenses. The assessment rate decrease is necessary to bring expected assessment income closer to the amount necessary to administer the program for the 1997-98 fiscal period. At the current rate, assessment income would exceed anticipated expenses by about \$35,000, and the projected reserve of \$220,000 on July 31, 1998, would exceed the level the Committee believes to be adequate to administer the program.

Major expenses recommended by the Committee for the 1997-98 fiscal period include \$80,912 for personnel and administrative expenses, \$45,000 for compliance, \$33,088 for promotion, and \$86,000 for onion breeding research. Budgeted expenses for these items in 1996-97 were \$80,000, \$120,000, \$150,000, and \$98,000, respectively.

The assessment rate recommended by the Committee was derived by dividing

anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at 4 million 50-pound equivalents, which should provide \$200,000 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 \$185,000) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; \$959.43).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1997-98 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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 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 68 producers of South Texas onions in the production area and approximately 35 handlers subject to regulation under the marketing order. Small agricultural

producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of South Texas onion producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 1997–98 and subsequent fiscal periods from \$0.07 to \$0.05 per 50-pound container or equivalent. The Committee unanimously recommended 1997–98 expenditures of \$245,000 and an assessment rate of \$0.05 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were \$448,000. The assessment rate of \$0.05 is \$0.02 less than the rate currently in effect. At the rate of \$0.07 per 50-pound container or equivalent and an estimated 1998 onion production of 4 million 50-pound equivalents, the projected reserve on July 31, 1998, would exceed the level the Committee believes to be adequate to administer the program. The Committee decided that an assessment rate of less than \$0.05 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1997–98 fiscal period include \$80,912 for personnel and administrative expenses, \$45,000 for compliance, \$33,088 for promotion, and \$86,000 for onion breeding research. Budgeted expenses for these items in 1996–97 were \$80,000, \$120,000, \$150,000, and \$98,000, respectively.

Onion shipments for the year are estimated at 4 million 50-pound equivalents, which should provide \$200,000 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 \$185,000) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 959.43).

Recent price information indicates that the grower price for the 1997–98 marketing season will range between \$7.00 and \$12.00 per 50-pound container or equivalent of onions. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between .714 and .417 percent.

This action reduces the assessment obligation imposed on handlers. While

this rule imposes some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 6, 1997, 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 will not impose any additional reporting or recordkeeping requirements on either small or large South Texas onion 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 Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. After consideration of all relevant matter 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) This action reduces the current assessment rate for South Texas onions; (2) the 1997–98 fiscal period began on August 1, 1997, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (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 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 959.237 [Amended]

2. Section 959.237 is amended by removing the words “August 1, 1996,” and adding in their place the words “August 1, 1997,” and by removing “\$0.07” and adding in its place “\$0.05.”

Dated: December 22, 1997.

Sharon Bomer Lauritsen,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33907 Filed 12–29–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 545, 550, 563e, and 571

[No. 97–129]

RIN 1550–AB09

Fiduciary Powers; Community Reinvestment Act

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (“OTS”) is issuing a final rule revising its fiduciary powers regulation. The final rule updates, clarifies, and streamlines OTS regulations, incorporates significant interpretive guidance, and eliminates unnecessary regulatory burden. The final rule consolidates all regulations on the fiduciary powers of Federal savings associations into a single part. Additionally, this part has been revised to incorporate the OTS current policy statement on the fiduciary activities of State-chartered savings associations.

The OTS is also amending its Community Reinvestment Act (“CRA”) regulations. The change conforms the scope of the OTS's CRA regulations to the regulations of the other Federal banking agencies. It exempts certain savings associations that do not perform commercial or retail banking services by