

deliberations. Like all Committee meetings, the February 15, 2007, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on April 4, 2007. Copies of the rule were made available to the Washington apricot industry by Committee staff, as well as through the Internet by the USDA and the Office of the Federal Register. That rule provided a 60-day comment period which ended June 4, 2007. No comments were 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 Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (72 FR 16263, April 4, 2007) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR part 922 that was published at 72 FR 16263 on April 4, 2007, is adopted as a final rule without change.

Dated: July 9, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 959

[Docket No. AMS-FV-07-0043; FV07-959-2 FIR]

#### Onions Grown in South Texas; Exemption of Onions for Export

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule exempting onions being shipped to export markets from regulations prescribed under the South Texas onion marketing order. The marketing order regulates the handling of onions grown in South Texas, and is administered locally by the South Texas Onion Committee (Committee). This rule continues in effect the action that provides a special purpose shipment exemption for onions being shipped to export markets. Under this change, onion shipments for export will continue to be exempt from the grade, size, quality, and inspection requirements of the marketing order.

This rule continues in effect the action that provides handlers additional flexibility in marketing onions of different grades and quality in various markets outside of the U.S. This change helps the South Texas onion industry develop additional markets for its onions, while increasing returns to producers and providing an increased supply of onions to help satisfy a rapidly developing export market.

**DATES:** *Effective Date:* August 13, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Belinda G. Garza, Regional Manager, Texas Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (956) 682-2833, Fax: (956) 682-5942, or E-mail: [Belinda.Garza@usda.gov](mailto:Belinda.Garza@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](mailto:Jay.Guerber@usda.gov).

**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 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."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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. A 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, unanimously recommended by the Committee at its March 16, 2007, meeting, continues in effect the action that exempts onion export shipments from the grade, size, quality and inspection requirements prescribed under the South Texas onion marketing order. To effectuate the exemption, paragraphs (e)(1) and (f) of § 959.322 were modified by adding the term "export" to the list of authorized special purpose shipment categories.

Section 959.52 of the order authorizes the issuance, amendment, modification, suspension, or termination of regulations for grade, size, quality, maturity, pack, and container for any variety of onions grown in the production area. Section 959.53 provides that regulations in effect pursuant to §§ 959.42, 959.52, or 959.60 may be modified, suspended or terminated to facilitate the handling of onions for specified special purpose shipments, including export. Section 959.60 provides that whenever onions are regulated pursuant to § 959.52, such onions must be inspected by the Federal-State Inspection Service, and

certified as meeting the applicable requirements of such regulations.

Section 959.322 contains the order's handling regulations and includes provisions for grade, size, and inspection requirements, as well as a minimum quantity exemption, certain special purpose shipment exemptions, and experimental shipments. The handling regulations also provide safeguards to ensure that onions being shipped for special purposes are handled in accordance with order provisions.

The Committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for South Texas onions which have been issued on a continuing basis. Committee meetings are open to the public and interested persons may express their views at these meetings. The USDA reviews Committee recommendations and information submitted by the Committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

Based on discussion at the March 16, 2007, meeting, the Committee conveyed to USDA that there was an extremely short supply of onions in Mexico and other countries. This shortage fueled a greater demand for all grades of onions. The Committee indicated that there was a great deal of interest in various foreign markets for onions of varying grade, size, and quality. Texas producers and handlers were characterized by the Committee as eager to supply this demand and were thus fully in support of relaxing the handling regulations in an effort to provide onions for the developing export markets.

The Committee also reported that the onion supply situation in Texas was hampered by a very short onion crop—approximately 12,500 acres this year compared with approximately 18,000 acres in past seasons—and cold weather had caused some quality issues in certain areas of the South Texas onion production area.

By exempting onions for export from the handling regulations, this rule continues in effect the action that provides handlers additional flexibility in marketing onions of different grades and quality in various markets outside of the U.S. This change helps the South Texas onion industry develop additional markets for its onions, while increasing returns to producers and provides an increased supply of onions

to help satisfy a rapidly developing export market.

All handlers making onion shipments for relief, charity, processing, or experimental purposes are required to apply for and obtain a Certificate of Privilege from the Committee to make such shipments. Once handlers are approved for such shipments, a Report of Special Purpose Onion Shipment form must be submitted to the Committee for each such onion shipment in order to ensure that the shipments are in accordance with Committee requirements. This rule continues in effect the action that allows all shipments to export markets to also be exempt from grade, size, quality, and inspection requirements and tracked through the use of the Report of Special Purpose Onion Shipment form.

#### **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 action 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. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those with annual receipts of less than \$6,500,000.

There are approximately 114 producers of onions in the production area and approximately 38 handlers subject to regulation under the order. Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2005–06 marketing year, the industry's 38 handlers shipped onions produced on 17,694 acres with the average and median volume handled being 182,148 and 174,437 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 38 handlers were estimated to be \$44.2 million, with average and median revenues being \$1.6 million and \$1.12 million, respectively.

The South Texas onion industry is characterized by producers and

handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all of the 38 handlers regulated by the order would be considered small entities if only their onion revenues are considered. However, revenues from other farming enterprises could result in a number of these handlers being above the \$6,500,000 annual receipt threshold. All of the 114 producers may be classified as small entities based on the SBA definition if only their revenue from onions is considered.

This rule continues in effect the action that exempts onion export shipments from the grade, size, quality and inspection requirements prescribed under the South Texas onion marketing order. To realize the exemption, paragraphs (e) and (f) of § 959.322 are modified by adding the term "export" to the list of authorized special purpose shipment categories.

Section 959.52 of the order authorizes the issuance of regulations for grade, size, quality, maturity, pack, and container for any variety of onions grown in the production area. Section 959.53 provides for the exemption from the handling regulations certain kinds of onion shipments, including export.

The Committee anticipates that this rule will not negatively impact small businesses. This rule continues in effect the action that exempts onions being shipped to export markets from the order's handling regulations, and thus provides enhanced marketing opportunities for all handlers, increased income for South Texas onion producers, and increased purchasing flexibility for foreign consumers.

The Committee considered alternatives to this recommendation. One consideration would have relaxed the minimum quality requirements of all onion shipments, both domestic and export, from U.S. No. 1 to U.S. No. 2. Although this option may have taken care of the export market demands, it was rejected early in the discussion due to the problems associated with trying to market onions that grade less than U.S. No. 1 to U.S. consumers. Also briefly considered was the option of suspending the entire handling

regulation, either on a temporary basis or indefinitely. The Committee also rejected this option as being too extreme for the current situation.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule are currently approved by the Office of Management and Budget (OMB), under OMB No. 0581-0178, Vegetable and Specialty Crops. This rule will impose minimal additional reporting or recordkeeping requirements, deemed to be insignificant, on both small and large onion handlers that export onions.

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. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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. Like all Committee meetings, the March 16, 2007, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Furthermore, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on April 9, 2007. Copies of the rule were mailed by the Committee's staff to all Committee members, onion handlers, and interested persons. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period, which ended June 8, 2007. No comments were 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/foab.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.

This rule continues in effect the action that exempts onions for export from the handling regulations prescribed under the South Texas onion marketing order.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (72 FR 17360, April 9, 2007) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 959

Onions, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

■ Accordingly, the interim final rule amending 7 CFR part 959 which was published at 72 FR 17360 on April 9, 2007, is adopted as a final rule without change.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 1220

[Docket No. AMS-LS-07-0084; LS-05-07]

#### Soybean Promotion and Research Program; Section 610 Review

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

**ACTION:** Confirmation of regulations.

**SUMMARY:** This document summarizes the results of an Agricultural Marketing Service (AMS) review of the Soybean Promotion, Research, and Consumer Information Program under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA). Based upon its review, AMS has determined that the Soybean Research and Promotion Order (Order) should be continued without change.

**ADDRESSES:** Interested persons may obtain a copy of the review. Requests for copies should be sent to Kenneth R. Payne, Chief, Marketing Programs, Livestock and Seed Program, AMS, USDA, Room 2628-S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251; Phone:

(202) 720-1115; Fax: (202) 720-1125; or, online at [www.regulations.gov](http://www.regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Kenneth R. Payne, Chief, Marketing Programs Branch, Livestock and Seed Program, AMS, USDA, Room 2638-S, STOP 0251, 1400 Independence Avenue, SW., Washington, DC 20250-0251 or e-mail

[Kenneth.Payne@usda.gov](mailto:Kenneth.Payne@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Order (7 CFR 1220) is authorized under the Soybean Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 6301 *et seq.*). This program is a national producer program for soybean and soybean product promotion, research, consumer information, and industry information as part of a comprehensive strategy to strengthen the soybean industry's position in the marketplace by maintaining and expanding existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybean and soybean products. Soybean producers fund this program through a mandatory assessment of one-half of one percent (0.5 percent) of the net market price per bushel on soybeans marketed. Assessments collected under this program are used for promotion, research, consumer information, and industry information.

The national program is administered by the United Soybean Board (Board), which has 64 producer members. Board members serve 3-year terms and represent 28 states and 2 geographic units.

On February 18, 1999, AMS published in the **Federal Register** (64 FR 8014), a plan to review certain regulations, including the Soybean Promotion, Research, and Consumer Information Program, known as the Soybean Checkoff Program (Program), under criteria contained in section 610 of the Regulatory Flexibility Act (RFA) (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 March 24, 2006 (71 FR 14827). The reviews are being conducted over the next 10 years under section 610 of the RFA. Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warranted review.

As part of its review of the Program, AMS published a notice of review and request for written comments on the Soybean Research and Promotion Order in the December 2, 2005 issue of the