

Proposed Rules

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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 Parts 927, 966, and 984

[Docket Nos. AMS-FV-08-0008, FV08-927-610 Review; AMS-FV-08-0009, FV08-966-610 Review; AMS-FV-08-0010, FV08-984-610 Review]

Pears Grown in Oregon and Washington; Tomatoes Grown in Florida; and Walnuts Grown in California; Section 610 Reviews

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Review and Request for Comments.

SUMMARY: This document announces that the Agricultural Marketing Service (AMS) plans to review Marketing Order 927 (Pears Grown in Oregon and Washington), Marketing Order 966 (Tomatoes Grown in Florida), and Marketing Order 984 (Walnuts Grown in California) under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA).

DATES: Written comments on this notice must be received by May 19, 2008.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice of review. 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>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or may be viewed at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA, Portland, Oregon; Telephone: (503) 326-2724; Fax: (503) 326-7440; or E-mail:

GaryD.Olson@usda.gov regarding the Oregon-Washington pear marketing order; Christian Nissen, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Winter Haven, Florida; Telephone: (863) 324-3375; Fax: (863) 325-8793; or E-mail: *Christian.Nissen@usda.gov* regarding the Florida tomato marketing order; or Kurt J. Kimmel, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Fresno, California; Telephone: (559) 487-5901; Fax: (559) 487-5906; or E-mail: *Kurt.Kimmel@USDA.gov* regarding the California walnut marketing order.

SUPPLEMENTARY INFORMATION: Marketing Order No. 927, as amended (7 CFR part 927), regulates the handling of pears grown in Oregon and Washington. Marketing Order No. 966, as amended (7 CFR part 966), regulates the handling of tomatoes grown in Florida. Marketing Order No. 984, as amended (7 CFR part 984), regulates the handling of walnuts grown in California. These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601-674).

AMS initially published in the **Federal Register** on February 18, 1999 (64 FR 8014), its plan to review certain regulations, including Marketing Order Nos. 927, 966, and 984, under criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Due to certain changes and additions, updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and finally on March 24, 2006 (71 FR 14827). Because many AMS regulations impact small entities, AMS has 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, warrant review.

The Florida tomato marketing order originally was scheduled for review in 2002. A notice of review and request for comments was published in the **Federal Register** on June 24, 2002 (67 FR 425303). One comment was received as a result of that notice. To the extent relevant, that comment will be taken into consideration in this review.

The purpose of the review will be to determine whether the marketing orders for Oregon and Washington pears, Florida tomatoes, and California walnuts should be continued without change, amended, or terminated (consistent with the objectives of the AMAA) to minimize the impacts on small entities. In conducting these reviews, AMS will consider the following factors: (1) The continued need for each of the marketing orders; (2) the nature of complaints or comments received from the public concerning these marketing orders; (3) the complexity of these marketing orders; (4) the extent to which these marketing orders overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since these marketing orders have been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the areas affected by these marketing orders.

Written comments, views, opinions, and other information regarding the impact these marketing orders have on small businesses are invited.

Dated: March 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8-5360 Filed 3-17-08; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. AMS-FV-07-0159; FV08-955-1 PR]

Vidalia Onions Grown in Georgia; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Vidalia Onion Committee (Committee) for the 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions handled. The Committee locally administers the marketing order which regulates the handling of Vidalia onions

grown in Georgia. Assessments upon Vidalia onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins 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 April 17, 2008.

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: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: Doris.Jamieson@usda.gov, or Christian.Nissen@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. 955, both as amended (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, 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, Vidalia onion 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 Vidalia onions beginning on January 1, 2008, 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 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions.

The Vidalia onion 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 Vidalia onions. 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 December 13, 2007, and unanimously recommended 2008 expenditures of \$712,000 and an assessment rate of \$0.13 per 40-pound

container of Vidalia onions. In comparison, last year's budgeted expenditures were \$835,200. The assessment rate of \$0.13 is \$0.03 higher than the rate currently in effect.

Over the past few years, the Committee has been using funds from reserves rather than increasing assessments to cover their expanded marketing program. This has reduced the reserve fund. The increase in the assessment rate would allow the Committee to fund its recommended level of promotion, while reducing the amount drawn from its authorized reserve fund.

The major expenditures recommended by the Committee for the 2008 fiscal year include \$410,000 for marketing, \$86,350 for salaries, \$42,800 for compliance, and \$37,200 for research. Budgeted expenses for these items in 2007 were \$505,000, \$82,000, \$20,000, and \$65,500, respectively.

The assessment rate recommended by the Committee was derived by considering available reserves, and dividing anticipated expenses by expected shipments of Vidalia onions. Vidalia onion shipments for the year are estimated at 4,300,000 40-pound containers, which should provide \$559,000 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 \$204,000) would be kept within the maximum permitted by the order (according to § 955.44, approximately three fiscal periods' expenses).

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 2008 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.

There are approximately 86 producers of Vidalia onions in the production area and approximately 65 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, which include handlers, are defined as those whose annual receipts are less than \$6,500,000 (13 CFR 121.201).

Based on the Georgia Agricultural Statistical Service and Committee data, the average annual grower price for fresh Vidalia onions during the 2007 season was around \$15 per 40-pound container. Total Vidalia onions shipments for the 2007 season were around 4,868,000 40-pound containers. Using available data, more than 90 percent of Vidalia onion handlers could be considered small businesses under the SBA definition. In addition, based on information from the Georgia Department of Agriculture, Committee data, and the National Agricultural Statistics Service, the majority of producers could be considered small entities. Thus, the majority of handlers and producers of Vidalia onions may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions. The Committee unanimously recommended 2008 expenditures of \$712,000 and an assessment rate of \$0.13 per 40-pound container. The proposed assessment rate of \$0.13 is \$0.03 higher than the 2007 rate. The quantity of assessable Vidalia onions for the 2008 fiscal year is estimated at 4,300,000. Thus, the \$0.13 rate should provide \$559,000 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.

The major expenditures recommended by the Committee for the 2008 fiscal year include \$410,000 for marketing, \$86,350 for salaries, \$42,800 for compliance, and \$37,200 for research. Budgeted expenses for these items in 2007 were \$505,000, \$82,000, \$20,000, and \$65,500, respectively.

Over the past few years, the Committee has been using funds from reserves rather than increasing assessments to cover their expanded marketing program. This has reduced the reserve fund. The increase in the assessment rate would allow the Committee to fund its recommended level of promotion, while reducing the amount drawn from its authorized reserve fund. Funds in the reserve (currently \$204,000) would be kept within the maximum permitted by the order.

The Committee reviewed and unanimously recommended 2008 expenditures of \$712,000 which included increases in administrative expenses, and compliance programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Executive Committee and the Research Subcommittee. Alternative expenditure levels were discussed by the Committee based upon the relative value of various research and promotion projects to the Vidalia onion industry. The Committee also discussed keeping the current \$0.10 per 40-pound bag or equivalent assessment rate. However, keeping the assessment rate at \$0.10 per 40-pound bag would not allow the Committee to fund many of the proposed promotional projects. The assessment rate of \$0.13 per 40-pound container of assessable Vidalia onions was then determined by considering available reserves, and dividing the total recommended budget by the quantity of assessable Vidalia onions, estimated at 4,300,000 40-pound containers for the 2008 fiscal year. This is approximately \$138,000 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2008 season could range between \$10.00 and \$34.00 per 40-pound container of Vidalia onions. Therefore, the estimated assessment revenue for the 2008 fiscal period as a percentage of total grower revenue could range between .4 and 1 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 Vidalia 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 December 13, 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 comments on this proposed rule, including 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 Vidalia 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.

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.

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 2008 fiscal period began on January 1, 2008, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Vidalia onions 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 955

Onions, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is proposed to be amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 955.209 is revised to read as follows:

§ 955.209 Assessment rate.

On and after January 1, 2008, an assessment rate of \$0.13 per 40-pound carton or equivalent is established for Vidalia onions.

Dated: March 12, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–5358 Filed 3–17–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 2 and 3

[Docket No. 99–014–3]

RIN 0579–AC41

Animal Welfare; Climatic and Environmental Conditions for Transportation of Warmblooded Animals Other Than Marine Mammals

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule that would remove the current ambient temperature requirements in the Animal Welfare Act regulations for various stages in the transportation of live animals other than marine mammals. The proposal would replace those requirements with a single performance standard for climatic and environmental conditions during their transportation. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before April 17, 2008.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2006–0150> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. 99–014–2, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–014–2.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry D. DePoyster, Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7586.

SUPPLEMENTARY INFORMATION: On January 3, 2008, we published in the *Federal Register* (73 FR 413–420, Docket No. 99–014–2) a proposal to remove the current ambient temperature requirements in the Animal Welfare Act regulations for various stages in the transportation of live animals other than marine mammals. The proposal would replace those requirements with a single performance standard under which the animals would be transported under climatic and environmental conditions that are appropriate for their welfare.

Comments on the proposed rule were required to be received on or before March 3, 2008. We are reopening the comment period on Docket No. 99–014–2 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between March 4, 2008, and the date of this notice.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 12th day of March 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–5394 Filed 3–17–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0301; Directorate Identifier 2007–NM–284–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000EX and 900EX Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

On early FALCON airplanes featuring the EASy cockpit, a new oxygen controller has been installed. An internal review has determined that the passenger oxygen mask boxes do not fit this new controller. In OVERRIDE mode, that is to say, when the internal pressure reducer is by-passed, oxygen (O₂) flow is nominal, while in NORMAL mode O₂ flow is reduced by half compared to what it should be.

Consequently, in NORMAL mode the minimum mass flow of supplemental O₂ for each passenger, as required by Certification Specifications, is no longer met. This could lead to passenger incommodation due to insufficient body oxygenation.

The unsafe condition is incorrectly fitted passenger oxygen mask boxes for the new controllers, which could result in incapacitation of passengers due to insufficient oxygen in the event of rapid depressurization of the airplane when the controller is in NORMAL mode. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 17, 2008.

ADDRESSES: You may send comments by any of the following methods: