

Rules and Regulations

Federal Register

Vol. 61, No. 97

Friday, May 17, 1996

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV95-959-3FR]

Onions Grown in South Texas; Change in Regulatory Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the end of the regulatory period for onions grown in South Texas under Marketing Order 959 from June 15 to June 4 of each year. Terminating the handling regulation on June 4 will relieve restrictions on handlers who ship late season onions and help them become more competitive with handlers from non-marketing order areas without diminishing South Texas marketing order objectives. A corresponding change in the dates for the import regulation also will be made in a second document. This final rule also includes a conforming change recognizing that the onions previously defined as "Extra large" are now defined as "Colossal" under the U.S. grade standards for onions.

EFFECTIVE DATE: June 4, 1996.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR part 959), as amended, regulating the handling of

onions grown in South Texas, hereinafter referred to as the "order." This 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary will 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.

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.

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 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 35 handlers of South Texas onions who are subject to regulation under the marketing order and 89 producers in the regulated area. Small

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

At a public meeting on November 8, 1994, the South Texas Onion Committee (committee) unanimously recommended, under the authority of § 959.52(c) of the order, changing the termination date of the regulatory period for all varieties of regulated onions from June 15 to June 4. Currently, order regulations are in effect from March 1 through June 15 each year. The early and mid-season crop is produced in the Lower Rio Grande Valley (District 1), which generally accounts for about 80 percent of the total. The remaining crop, generally 20 percent, is produced in the Laredo-Winter Garden area of South Texas (District 2). These are the last regulated shipments to leave the production area each season.

In April 1994, based on a committee recommendation, the regulatory period was extended from May 20 to June 15 (59 FR 17265; April 12, 1994). At that time, the committee believed that the application of quality control requirements over a longer time was necessary to enhance the South Texas onion industry's market research and promotion efforts, and protect its quality image. The committee also believed that District 2 handlers should pay assessments on more of their shipments for the research and promotion programs that benefit the entire industry.

After one season's experience, District 2 growers and handlers requested the committee to reconsider the regulatory extension. Shipments made from District 2 compete with onions produced in West Texas and other areas of the United States not regulated under Federal marketing orders. Onion prices are usually quite low during this period and unregulated areas have a competitive advantage over District 2 because inspection costs for quality control purposes and administrative assessments are not incurred by shippers from these areas. Ending regulations on June 4, rather than June

15, will relieve restrictions on District 2 shippers and help them become more competitive with shippers from these production areas without diminishing program objectives.

Section 8e provides that whenever certain specified commodities, including onions, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity, subject to concurrence by the United States Trade Representative. The Act further provides that when two or more marketing orders covering the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition. Because this rule changes the regulatory period under the South Texas onion marketing order, corresponding changes will be needed in the onion import regulations. Such changes are addressed in a separate onion import rule.

The proposed rule concerning this action was published in the February 20, 1996, Federal Register (61 FR 6328), with a 30-day comment period ending March 21, 1996. One comment was received in opposition to the proposed rule from a packer. The commenter stated that both South Texas and Idaho-Eastern Oregon successfully compete with onion producing areas that are not regulated. He further stated that he believed that the order was necessary to improve quality and thus make the production area a stronger competitor in the onion industry. The committee contends that this competition tends to bring about low prices to the late producing areas, and sometimes the addition of an administrative assessment and inspection fee may leave the shipper of late season South Texas onions at a competitive disadvantage. Thus, the committee believes that removing inspection and assessment requirements for a very short period will help shippers of late onions meet the competition from production areas outside of South Texas without diminishing program objectives.

After thoroughly analyzing the comment received and other available information, the Department has concluded that ending the regulatory period on June 4, rather than June 15, as recommended by the committee will reduce the regulatory burden on late season shippers and help them compete more effectively with shippers from unregulated areas in the United States without adversely affecting the overall

objectives of the marketing order. As mentioned earlier, onion prices are usually quite low late in the season and unregulated areas have a competitive advantage over the late season shippers from South Texas because inspection costs for quality control purposes and administrative assessments are not incurred by shippers from many of these areas.

This final rule also changes the name of the largest size classification of onions under the handling regulation (7 CFR 959.322(b)(5)) from "Extra large" to "Colossal" to bring that designation into conformity with the designation used in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195-51.3209), and the U.S. Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 51.2830-51.2854). The standards were revised effective October 10, 1995 (60 FR 46976). One of the revisions was the addition of a new size classification called "Colossal" for onions 3¾ inches or larger in diameter. A conforming change failed to be made in the handling regulations and onions of this size continued to be referred to as "Extra large" in paragraph (b)(5) of section 959.322. Hence, this term should be changed to "Colossal" to bring the handling regulation into conformity with the standards. The committee recommended this minor conforming change.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on the above, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the commenter, 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 further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This regulation relaxes restrictions on South Texas onion handlers by ending regulations on June 4 of each season rather than June 15 of each season; (2) the shipping season for South Texas onions has already begun and the committee would like this action effective for this season; (3) changing the ending date of the handling regulation was discussed at a public meeting, and all interested persons had

an opportunity to provide input; and (4) there are no additional regulatory burdens imposed by this rule which require special preparations of handlers.

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 hereby 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.

2. In § 959.322, the introductory text and paragraph (b)(5) are revised to read as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending June 4, no handler shall handle any onions unless they comply with paragraphs (a) through (d), or (e), or (f) of this section. In addition, no handler may package or load onions on Sunday during the period March 1 through May 20.

* * * * *

(b) * * *

(5) "Colossal"—3¾ inches or larger in diameter.

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Dated: May 14, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-12434 Filed 5-16-96; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-62-AD; Amendment 39-9621; AD 96-10-14]

RIN 2120-AA64

Airworthiness Directives; The New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation) PA31, PA31P, and PA31T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 88-05-05, which currently requires the following on certain The New Piper Aircraft, Inc. (Piper) PA31, PA31P, and PA31T series airplanes: repetitively inspecting both