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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV97-979-1 FIR]

Melons Grown in South Texas; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule establishing an assessment rate for the South Texas Melon Committee (Committee) under Marketing Order No. 979 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess Texas melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210-682-2833, FAX 210-682-5942, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone 202-720-9918; FAX 202-720-5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington,

DC 20090-6456; telephone 202-720-2491; FAX 202-720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 156 and Order No. 979, both as amended (7 CFR part 979), regulating the handling of melons 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 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 melon handlers are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable melons beginning October 1, 1996, 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.

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.

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 32 producers of South Texas melons in the production area and approximately 24 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 melon producers and handlers may be classified as small entities.

The melon 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 melons. 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.

The Committee, in a telephone vote on September 25, 1996, unanimously recommended 1996-97 administrative expenses of \$100,000 for personnel, office, and the travel portion of the compliance budget. These expenses were approved by the Department in October 1996. The assessment rate and funding for the research 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 December 17, 1996, and unanimously recommended 1996-97 expenditures of \$308,000 and an assessment rate of \$0.07 per carton of melons. In comparison, last year's budgeted expenditures were \$395,159. The assessment rate of \$0.07 is the same as last year's established rate. Major

expenditures recommended by the Committee for the 1996–97 fiscal period include \$84,500 for personnel and administrative expenses, \$115,500 for compliance, \$64,000 for a melon disease management program, \$33,125 for breeding and variety development, and \$10,875 for melon variety evaluation. Budgeted expenses for these items in 1995–96 were \$95,544, \$139,500, \$86,716, \$32,674, and \$10,875, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas melons. Melon shipments for the year are estimated at 3,870,000 cartons, which should provide \$270,900 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 will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the February 20, 1997, issue of the **Federal Register** (62 FR 7659). That rule provided a 30-day comment period. No comments were received.

While this rule will impose some additional costs on handlers, the costs are 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. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

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 1996–97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material 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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on October 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons 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) an interim final rule was published on this action and provided for a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

PART 979—MELONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 979 which was published at 62 FR 7659 on February 20, 1997, is adopted as a final rule without change.

Dated: June 2, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-14877 Filed 6-5-97; 8:45 am]

BILLING CODE 3410-02-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

RIN 0960-AD89

Supplemental Security Income for the Aged, Blind, and Disabled; Technical Changes to Title XVI

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are amending the supplemental security income (SSI)

regulations by making technical changes to our rules on income and resources. These technical changes update lists of exclusions from income and resources under the SSI program that are in statutes other than the Social Security Act (the Act) and make an additional technical correction. We are also reflecting a statutory provision from the Social Security Independence and Program Improvements Act (SSIIPIA) of 1994 concerning optional State supplementary payments.

EFFECTIVE DATE: July 7, 1997.

FOR FURTHER INFORMATION CONTACT:

Suzanne DiMarino, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1769.

SUPPLEMENTARY INFORMATION: In these final regulations we are making technical changes to the SSI regulations as follows: Updating the appendix at the end of subpart K which lists exclusions from income in statutes other than the Act; updating the lists of statutory exclusions from resources contained in subpart L; and making a technical correction in subpart L for conformity with prior regulatory changes. In addition, we are reflecting, in subpart T, a statutory provision which explains that some States which have Federal administration of their optional supplementary payments may elect to exclude for pass-along compliance purposes certain payments made as a result of the *Sullivan v. Zebley*, 493 U.S. 521 (1990) class action. The changes and added provision are described below.

Subpart K, Appendix, Changes

At the end of part 416, subpart K, we maintain an appendix which lists types of income excluded under the SSI program as provided by Federal laws other than the Act. We update this list periodically. However, we apply the law in effect due to changes to Federal statutes whether or not the list in the appendix has been amended to reflect the statutory changes. We are revising the appendix to subpart K as follows:

1. Under the heading *IV. Native Americans*, we are updating the list to reflect the exclusion from income for SSI purposes of additional payments, funds, distributions, and other income provided by Federal laws that affect Alaskan Natives and other Indian entities. As appropriate, we include a Note—regarding our treatment of the income under the deeming of income from sponsors to aliens provisions.

We are adding 22 types of payments made to Native American entities to the list of income exclusions provided by Federal statutes. We also are making