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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 Part 906

[Docket No. FV99–906–2 PR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate from $0.11 to $0.12 per 7/10 bushel carton of oranges and grapefruit established for the Texas Valley Citrus Committee (Committee) under Marketing Order No. 906 for the 1999–2000 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. Authorization to assess orange and grapefruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 9, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.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.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, 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) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 906 (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in 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, orange and grapefruit handlers in the Lower Rio Grande Valley in Texas 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 oranges and grapefruit beginning on August 1, 1999, 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 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 would increase the assessment rate established for the Committee for the 1999–2000 and subsequent fiscal periods from $0.11 to $0.12 per 7⁄10 bushel carton handled.

The Texas orange and grapefruit 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 Texas oranges and grapefruit. 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 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.11 per 7⁄10 bushel carton that would continue in effect from fiscal period to fiscal period 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 met on June 8, 1999, and unanimously recommended 1999–2000 expenditures of $1,148,850 and an assessment rate of $0.12 per 7⁄10 bushel carton of oranges and grapefruit handled. In comparison, last year's budgeted expenditures were $1,181,950. The assessment rate of $0.12 is $0.01 higher than the rate currently in effect. The Committee has operated under a lower assessment rate in recent years and used available reserve funds to make up most of the difference between assessment income and expenses. Since 1994, the Committee's reserve has decreased from almost $400,000 to slightly under $120,000. Thus, the Committee recommended increasing the assessment rate because the current rate would not generate enough income to cover 1999–2000 expenses, and the Committee only wants to use a limited amount of reserve funds to meet expenses. The Committee wants to ensure that adequate reserve funds are available to meet unexpected expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include $739,000 for advertising, $179,000 for the Mexican Fruit Fly program, $109,781 for management and administration of the program, and $73,369 for compliance. Budgeted expenses for these items in 1998–99 were $768,700, $179,000, $109,781, and $73,369, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Texas oranges and grapefruit. Texas orange and grapefruit shipments for the year are estimated at 9.5 million 7⁄10 bushel cartons, which should provide $1,140,000 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 $119,402) would be kept within the maximum of one fiscal period's expenses permitted by the order (§ 906.35).

The proposed assessment rate would 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 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1999–2000 budget and those for subsequent fiscal periods would 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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 315 producers of oranges and grapefruit in the production area and 16 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (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 Texas orange and grapefruit producers and handlers may be classified as small entities.

Last year, 5 of the 16 handlers (31 percent) each shipped over 625,000 7⁄10 bushel cartons of oranges and grapefruit. Using an average f.o.b. price of $8.00 per carton, these handlers could be considered large businesses by the SBA, and the remaining 11 handlers (69 percent) could be considered small businesses. Of the approximately 315 producers within the production area, few have sufficient acreage to generate sales in excess of $500,000; therefore, a majority of producers of Texas oranges and grapefruit may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from $0.11 to $0.12 per 7⁄10 bushel carton of oranges and grapefruit. The Committee unanimously recommended 1999–2000 expenditures of $1,148,850 and an assessment rate of $0.12 per 7⁄10 bushel carton. The proposed assessment rate of $0.12 is $0.01 higher than the 1998–99 rate. The Committee recommended increasing the assessment rate because the current rate would not generate enough income to cover 1999–2000 expenses, and the Committee only wants to use a limited amount of reserve funds to meet expenses. The Committee wants to ensure that adequate reserve funds are available to meet unexpected expenses. The quantity of assessable oranges and grapefruit for the 1999–2000 season is estimated at 9.5 million 7⁄10 bushel cartons. Assessment income, 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 1999–2000 fiscal period include $739,000 for advertising and promotion, $179,000 for the Mexican Fruit Fly program, $109,781 for management and administration of the marketing order program, and $73,369 for compliance. Budgeted expenses for these items in 1998–99 were $768,700, $179,000, $109,781, and $73,369, respectively.

Many producers are still recovering from the devastating freezes of 1983 and 1989 that virtually destroyed the Texas citrus industry. Most trees in the production area were planted within the past ten years and have not yet reached full maturity. As a result, yields are still somewhat low and profit to the producers is marginal. Also, a general oversupply of citrus from other domestic sources and foreign countries depressed prices. The Committee recommended that the 1999–2000 rate of assessment be increased to $0.12 per 7⁄10 bushel carton. The Committee recommended increasing the assessment rate because the current rate would not generate enough income to cover 1999–2000 expenses, and the Committee only wants to use a limited amount of reserve funds ($5,850) to meet expenses. Interest income totaling $3,000 will also be used to cover program expenses in 1999–2000. At the end of the 1999–2000 fiscal period, the reserve is expected to be $113,552.

The Committee reviewed and unanimously recommended 1999–2000 expenditures of $1,148,850, which included a decrease in the advertising and promotion program. Budgeted expenses for the Mexican Fruit Fly program were left the same as last year. In arriving at the budget, the Committee considered information from various sources, including the Executive Committee. The Committee considered leaving the established lower assessment rate unchanged. The Committee, however, concluded that retaining the current $0.11 per 7⁄10 bushel carton assessment rate for the 1999–2000 fiscal period would reduce the Committee's reserve to an unacceptable level. Alternative expenditure levels were discussed based upon the relative value of the advertising and promotion program to the Texas citrus industry. The proposed assessment rate of $0.12 per 7⁄10 bushel carton of assessable oranges and grapefruit was determined by dividing the total recommended budget by the quantity of assessable oranges and grapefruit estimated at 9.5 million 7⁄10 bushel cartons for the 1999–2000 fiscal period. The $0.12 rate should provide $1,140,000 in assessment income. The additional $8,850 would come from the Committee's reserve and interest income.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the f.o.b. price for the 1999–2000 season could range from $4.75 to $12.50 per 7/10 bushel carton of oranges and grapefruit depending upon the fruit variety, size, and quality. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of the total pack-out revenue could range between .96 and 2.5 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 Texas orange and grapefruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 8, 1999, 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 proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Texas orange and grapefruit 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.

A 20-day comment period is provided to allow interested persons to respond to this proposed rule. Twenty days is deemed appropriate because: (1) The 1999–2000 fiscal period begins on August 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable oranges and grapefruit handled during such fiscal period, and handlers will begin harvesting their fruit in early September; (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 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is proposed to be amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 906.235 is revised to read as follows:

§ 906.235 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.12 per 7/10 bushel carton is established for oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

Dated: July 14, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–18318 Filed 7–16–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 98–095–1]

Pork and Pork Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The importation and in-transit movement of fresh (chilled or frozen) pork and pork products from Mexico into the United States is restricted because of the presence of hog cholera in some areas in Mexico. We are proposing to amend the regulations to allow fresh (chilled or frozen) pork and pork products from the Mexican States of Baja California Sur, Coahuila, Nuevo Leon, Tamaulipas, Sinaloa, Campeche, and Quintana Roo to transit the United States, under certain conditions, for export to another country. We are proposing this action because there has been no outbreak of hog cholera in any of the States of Baja California Sur, Coahuila, Nuevo Leon, Tamaulipas, Sinaloa, Campeche, or Quintana Roo since 1993, and it appears that fresh (chilled or frozen) pork and pork products from each of the above States could transit the United States under seal with an insignificant risk of introducing hog cholera.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by September 17, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–095–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–095–1.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737, (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations)