

(4) *Phytosanitary inspection.* The fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the post-harvest processing. A biometric sample will be drawn and examined from each consignment of fruit, which may represent multiple grower lots from different packing sheds. Clementines, mandarins, or tangerines in any consignment may be shipped to the United States only if the consignment passes inspection as follows:

(i) Fruit presented for inspection must be identified in the shipping documents accompanying each lot of fruit that identify the production site(s) where the fruit was produced and the packing shed(s) where the fruit was processed. This identity must be maintained until the fruit is released for entry into the United States.

(ii) A biometric sample of boxes from each consignment will be selected and the fruit from these boxes will be visually inspected for quarantine pests, and a portion of the fruit will be washed and the collected filtrate will be microscopically examined for *B. chilensis*.

(A) If a single live *B. chilensis* mite is found, the fruit will be eligible for importation into the United States only if it is fumigated in accordance with paragraph (e) of this section. The production site will be suspended from the low prevalence certification program and all subsequent lots of fruit from the production site of origin will be required to be fumigated as a condition of entry to the United States for the remainder of the shipping season.

(B) If inspectors find evidence of any other quarantine pest, the fruit in the consignment will remain eligible for importation into the United States only if an authorized treatment for the pest is available in the PPQ Treatment Manual and the entire consignment is treated for the pest in Chile under APHIS supervision.

(iii) Each consignment of fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the fruit in the consignment meets the conditions of § 319.56–21(d).

(e) *Approved fumigation.* Clementines, mandarins, or tangerines that do not meet the conditions of paragraph (d) of this section may be imported into the United States if the fruit is fumigated with methyl bromide for *B. chilensis* in Chile in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. An APHIS inspector will

monitor the fumigation of the fruit and will prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation. The fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile after the completion of treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatment.

(f) *Trust fund agreement.* Clementines, mandarins, and tangerines may be imported into the United States under this section only if the NPPO of Chile has entered into a trust fund agreement with APHIS. This agreement requires the NPPO of Chile to pay in advance of each shipping season all costs that APHIS estimates it will incur in providing inspection and treatment monitoring services in Chile during that shipping season. These costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement requires the NPPO of Chile to deposit a certified or cashier's check with APHIS for the amount of these costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the NPPO of Chile to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before APHIS will provide any more services related to the inspection and treatment of clementines, mandarins, and tangerines in Chile. After a final audit at the conclusions of each shipping season, any overpayment of funds would be returned to the NPPO of Chile, or held on account until needed, at their option.

Done in Washington, DC, this 16th day of March 2004.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 04–6325 Filed 3–19–04; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 979

[Docket No. FV04–979–1 PR]

#### Melons Grown in South Texas; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the South Texas Melon Committee (Committee) for the 2003–04 and subsequent fiscal periods from \$0.06 to \$0.09 per carton of melons handled. The Committee locally administers the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by April 6, 2004.

**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 e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov) or [www.regulations.gov](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.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, 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.

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. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons 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."

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, South Texas melon 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 melons beginning on October 1, 2003, 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 2003-04 and subsequent fiscal periods from \$0.06 to \$0.09 per carton of melons handled.

The South Texas melon 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 growers 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.

For the 2001-02 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 September 11, 2003, and unanimously recommended 2003-04 expenses of \$89,859 for personnel, office, compliance, and partial market development expenses to be funded by the continuing assessment rate of \$0.06 per carton. Specific funding for production research and market development projects were to be recommended at a later Committee meeting.

The Committee subsequently met on January 14, 2004, and recommended 2003-04 expenditures of \$351,859 and an assessment rate of \$0.09 per carton of melons handled. In comparison, last year's budgeted expenditures were \$313,853. The assessment rate of \$0.09 is \$0.03 higher than the rate currently in effect. The Committee recommended the increased rate to fund a variety of market development and production research projects, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to \$50,017, which is lower than what the Committee needs for operations. This amount is derived by taking the current reserve (\$193,776), adding the \$203,100 in assessment income based on the old rate ( $3,385,000 \times \$0.06$  per carton) and anticipated interest totaling \$5,000, and then subtracting the 2003-04 budget of \$351,859. With the new rate, \$304,650 in assessment income would be generated, and the reserve fund would only drop to \$151,567.

The major expenditures recommended by the Committee for the 2003-04 fiscal period include \$59,859 for administrative expenses, \$20,000 for compliance, \$160,000 for market development, and \$112,000 for

production research projects. Budgeted expenses for these items in 2002-03 were \$59,859, \$20,000, \$137,000, and \$100,800, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of South Texas melons, anticipated interest income, and the amount of funds in the Committee's operating reserve. As mentioned earlier, melon shipments for the fiscal period are estimated at 3,385,000, which should provide \$304,650 in assessment income at the \$0.09 per carton rate. 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 \$193,776) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, \$979.44).

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 2003-04 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 33 growers of melons in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Most of the handlers are vertically integrated corporations involved in growing, shipping, and marketing melons. For the 2002–03 marketing year, the industry's 25 handlers shipped melons produced on 5,945 acres with the average and median volume handled being 111,651 and 32,215 cartons, respectively. In terms of production value, total revenue for the 25 handlers was estimated to be \$25.6 million, with the average and median revenues being \$1.02 million and \$296,000, respectively.

The South Texas melon industry is characterized by growers 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 melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate crops, like onions.

Based on the SBA's definition of small entities, the Committee estimates that 23 of the 25 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises could likely push a large number of these handlers above the \$5,000,000 annual receipt threshold. Of the 33 growers within the production area, few have sufficient acreage to generate sales in excess of \$750,000; therefore, the majority of growers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2003–04 and subsequent fiscal periods from \$0.06 to \$0.09 per carton handled. The Committee recommended 2003–04 expenditures of \$351,859 and an assessment rate of \$0.09 per carton.

The proposed assessment rate of \$0.09 is \$0.03 higher than the current rate. At the rate of \$0.09 per carton and an estimated 2003–04 melon production of 3,385,000 cartons, the projected income derived from handler assessments (\$304,650), along with interest and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2003–04 fiscal period include \$59,859 for administrative expenses, \$20,000 for compliance, \$160,000 for market development, and \$112,000 for production research projects. Budgeted expenses for these items in 2002–03 were \$59,859, \$20,000, \$137,000, and \$100,800, respectively.

The Committee recommended the increased rate to fund a variety of production research projects, without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to \$50,017, which is lower than what the Committee needs for operations. With the increased rate, the reserve fund would only drop to \$151,567.

The Committee voted to increase its assessment rate because the current rate would reduce the Committee's reserve funds to an unacceptable level. Assessment income, along with interest and funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 2003–04 fiscal period's expenses.

The Committee reviewed and unanimously recommended 2003–04 expenditures of \$351,859, which included an increase in its market development and production research programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and Market Development Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various production research and market development projects to the melon industry. The assessment rate of \$0.09 per carton of assessable melons was then determined by considering the total recommended budget, the quantity of assessable melons estimated at 3,385,000 cartons for the 2003–04 fiscal period, anticipated interest income, and the funds in the Committee's operating reserve. The recommended rate will generate \$304,650, which is \$47,209 below the anticipated expenses. The Committee found this acceptable because interest and reserve funds will be used to make up the deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2003–04 marketing season could range between \$6.68 and \$7.60 per carton of cantaloupes and between \$5.40 and \$6.33 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 2003–04 fiscal period as a percentage of total grower revenue could range between 1.2 and 1.3 percent for cantaloupes and between 1.4 and 1.7 percent for honeydew melons.

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 growers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meetings were widely publicized throughout the South Texas melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 11, 2003, and January 14, 2004, meetings were public meetings 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 production area commodity 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.

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 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2003–04 fiscal period began on October 1, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable

melons 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 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 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is proposed to be amended as follows:

#### PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 979.219 is revised to read as follows:

##### § 979.219 Assessment rate.

On and after October 1, 2003, an assessment rate of \$0.09 per carton is established for South Texas melons.

Dated: March 15, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–6323 Filed 3–19–04; 8:45 am]

**BILLING CODE 3410–02–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[IN158–1b; FRL–7626–8]

#### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to approve revisions to particulate matter (PM<sub>10</sub>) emissions regulations for U.S. Steel-Gary Works and U.S. Steel-Gary Coke Operations, located in Lake County, Indiana. The Indiana Department of Environmental Management requested on June 13, 2003, and as supplemented on October 3, 2003, that EPA approve this State Implementation Plan (SIP) revision, as an amendment to 326 Indiana Administrative Code (IAC) 6–1–10.1 and 326 IAC 6–1–10.2. The revisions to the rules reflect the closure of certain emission units, the addition of new emission units, and the installation

of new control systems. These changes should result in decreased PM<sub>10</sub> emissions of approximately 350 tons per year. In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule, we plan to take no further action on this proposed rule. If we receive significant adverse comments, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** EPA must receive written comments on or before April 21, 2004.

**ADDRESSES:** Send written comments to: J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in part(I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Criteria Pollution Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, [panos.christos@epa.gov](mailto:panos.christos@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final notice which is located in the rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: February 6, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04–6215 Filed 3–19–04; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[CA287–0428b; FRL–7628–2]

#### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and ammonia emissions from composting and related activities. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by April 21, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the locations listed below.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.  
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, EPA Region IX, at either (415) 947–4111, or [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local SCAQMD rules: Rule 1133, Composting and Related Operations—General Administrative Requirements, Rule