

Question	Yes	No	N/A ¹	Documentation (TAP; petition; regulatory agency; other)
a. copper and sulfur compounds; b. toxins derived from bacteria; c. pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals? d. livestock parasiticides and medicines? e. production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleaners?				

¹ If the substance under review is for crops or livestock production, all of the questions from 205.600(b) are N/A—not applicable.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV05–981–2 PR]

Almonds Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Almond Board of California (Board) for the 2005–06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds received. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The Board locally administers the marketing order which regulates the handling of almonds grown in California. Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The crop year 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 June 27, 2005.

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, E-mail: moab.docketclerk@usda.gov, 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.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT:

Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; 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.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, 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, California almond 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 almonds beginning August 1, 2005, 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 Board for the 2005–06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds received. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities.

The order provides authority for the Board, 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 Board are producers and handlers of California almonds. They are familiar with the Board’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 2004–05 and subsequent crop years, the Board recommended, and USDA approved, an assessment rate that would continue in effect from crop year

to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of \$28,756,000. In comparison, last year's budgeted expenditures were \$24,077,344. The recommended assessment rate of \$0.030 would be \$0.005 higher than the rate currently in effect, and the credit-back portion of the assessment rate (\$0.018 per pound) would be \$0.004 more than the credit-back portion currently in effect.

The major expenditures recommended by the Board for the 2005–06 crop year include \$15,423,000 for domestic advertising, market research, and public relations; \$4,920,000 for operational expenses; \$4,873,000 for international public relations and other promotion and education programs, including a Market Access Program (MAP) administered by USDA's Foreign Agricultural Service (FAS); \$1,200,000 for nutrition research; \$850,000 for production research; \$830,000 for food quality programs; and \$500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were \$12,540,000 for domestic advertising, market research, and public relations; \$3,611,981 for operational expenses; \$4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$947,321 for production research; \$858,000 for food quality programs; and \$460,042 for environmental research, plus other minor sums.

The Board recommended increasing the assessment rate from \$0.025 per pound to \$0.030 per pound of almonds handled. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval. The increased assessment rate is needed because the 2005–06 crop is projected at 816 million pounds of assessable almonds, down from the 1.0368 billion pound 2004–05 crop, and projected assessment revenue will likely be reduced. The increased rate should generate adequate revenue to fund the Board's 2005–06 budgeted expenses and to maintain a small financial reserve. Section 981.81(c) authorizes a financial reserve of approximately one-half year's budgeted expenses. One-half of the

2005–06 crop year's budgeted expenses of \$28,756,000 equals \$14,378,000. The Board's financial reserve at the end of the 2005–06 crop year is projected to be \$1.1 million which is well within the authorized reserve.

The assessment rate recommended by the Board was derived by considering anticipated expenses and production levels of California almonds, and additional pertinent factors. In its recommendation, the Board utilized an estimate of 816 million pounds of assessable almonds for the 2005–06 crop year. If realized, this would provide estimated assessment revenue of \$9,792,000 from all handlers, and an additional \$9,180,000 from those handlers who do not participate in the credit-back program, for a total of \$18,972,000. In addition, it is anticipated that \$10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources would be adequate to cover budgeted expenses. Any unexpended funds from the 2005–06 crop year may be carried over to cover expenses during the succeeding crop year. Funds in the reserve at the end of the 2005–06 crop year are estimated to be approximately \$1.1 million which would be within the amount permitted by the order.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2005–06 budget and those for subsequent crop years 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 6,000 producers of almonds in the production area and approximately 115 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,000,000.

Data for the most recently completed crop year indicate that about 48 percent of the handlers shipped over \$6,000,000 worth of almonds and about 52 percent of handlers shipped under \$6,000,000 worth of almonds. In addition, based on production and grower price data reported by the California Agricultural Statistics Service (CASS), and the total number of almond growers, the average annual grower revenue is estimated to be approximately \$261,248. Based on the foregoing, the majority of handlers and producers of almonds may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2005–06 and subsequent crop years from \$0.025 to \$0.030 per pound of almonds. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities consistent with § 981.441 of the order's regulations and subject to Board approval.

The Board met on May 12, 2005, and unanimously recommended 2005–06 expenditures of \$28,756,000 and an assessment rate of \$0.030 per pound. Of the \$0.030 per pound assessment, 60 percent (or \$0.018 per pound) would be available as credit-back for handlers who conduct their own promotional activities. The proposed assessment rate of \$0.030 would be \$0.005 higher than the current rate, and the credit-back portion of \$0.018 per pound would be \$0.004 more than the current credit-back portion. The quantity of assessable almonds for the 2005–06 crop year is estimated at 816,000,000 pounds. The

proposed assessment rate would provide estimated assessment revenue of \$9,792,000 from all handlers, and an additional \$9,180,000 from those handlers who do not participate in the credit-back program, for a total of \$18,972,000. In addition, it is anticipated that \$10,851,797 will be provided by other sources, including interest income, MAP funds, grant funds, miscellaneous income, and reserve/carryover funds. When combined, revenue from these sources would be adequate to cover budgeted expenses. The projected financial reserve at the end of 2005–06 would be \$1,137,797 which would be within the maximum permitted under the order.

The major expenditures recommended by the Board for the 2005–06 crop year include \$15,423,000 for domestic advertising, market research, and public relations; \$4,920,000 for operational expenses; \$4,873,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$850,000 for production research; \$830,000 for food quality programs; and \$500,000 for environmental research, plus other minor sums. Budgeted expenses for these items in 2004–05 were \$12,540,000 for domestic advertising, market research, and public relations; \$3,611,981 for operational expenses; \$4,340,000 for international public relations and other promotion and education programs, including a MAP administered by USDA's FAS; \$1,200,000 for nutrition research; \$947,321 for production research; \$858,000 for food quality programs; and \$460,042 for environmental research, plus other minor sums.

The Board considered alternative assessment rate levels, including the portion available for handler credit-back. After deliberating the issue, the Board recommended increasing the assessment rate to \$0.030 per pound, with 60 percent (or \$0.018 per pound) available for handler credit-back. In arriving at its budget, the Board considered information from its various committees. Alternative expenditure levels were discussed by these groups, based on the value of various activities to the industry. The committees ultimately recommended appropriate activities and funding levels, which were adopted by the Board.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the average grower price for the 2005–06 season could range between \$3.00 and \$3.50 per pound of almonds.

Therefore, the estimated assessment revenue for the 2005–06 crop year (disregarding any amounts credited pursuant to §§ 981.41 and 981.441) as a percentage of total grower revenue could range between 1.00 and 0.86 percent, respectively.

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 Board's meeting was widely publicized throughout the California almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the May 12, 2005, 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 California almond 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 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2005–06 crop year begins on August 1, 2005, and the order requires that the rate of assessment for each crop year apply to all assessable almonds handled during such crop year; (2) a final decision on the increase should be made as soon as possible so handlers can plan accordingly; (3) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (4) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other

assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.343 is revised to read as follows:

§ 981.343 Assessment rate.

On and after August 1, 2005, an assessment rate of \$0.030 per pound is established for California almonds. Of the \$0.030 assessment rate, 60 percent per assessable pound is available for handler credit-back.

Dated: June 10, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–12006 Filed 6–16–05; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 45, 46, and 131

[Docket No. RM05–13–000]

Electronic Filing of Interlocking Positions and Twenty Largest Purchasers Information

May 26, 2005.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations for filings by persons holding interlocking positions and for utilities listing their twenty largest purchasers of electricity. The proposed revisions provide for electronic filing. The modifications in this Proposed Rule are the result of a review conducted by the Commission's Information Assessment Team (FIAT), identifying the Commission's current information collections, evaluating their original purposes and current uses, and proposing ways to reduce the reporting burden on industry through the