

Proposed Rules

Federal Register

Vol. 71, No. 103

Tuesday, May 30, 2006

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 959

[Docket No. AO-322-A4; FV06-959-1]

Onions Grown in South Texas; Hearing on Proposed Amendment of Marketing Agreement No. 143 and Order No. 959

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Marketing Agreement No. 143 and Order No. 959 (order), which regulate the handling of onions grown in South Texas. Four amendments are proposed by the South Texas Onion Committee (committee), which is responsible for local administration of the order. These proposed amendments would: Add authority to the order to establish supplemental assessment rates on specified containers; authorize interest and late payment charges on assessments not paid within a prescribed time period; add authority for the committee to engage in marketing promotion and paid advertising activities; and authorize container marking requirements on containers of onions prior to shipment. Three additional amendments are proposed by the Agricultural Marketing Service (AMS). These amendments would: (1) Require that a continuance referendum be conducted every six years to determine grower support for the order; (2) limit the number of consecutive terms of office a member can serve on the committee; and (3) make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing. The proposals are intended to provide the industry with additional tools to aid in the marketing of onions

and to improve the operation and administration of the order.

DATES: The hearing will be held on June 15, 2006, in Mission, Texas, beginning at 8:30 a.m. and continuing until completed.

ADDRESSES: The hearing location is: 901 Business Park Drive, Texas Sweet Conference Room, Mission, Texas 78572.

FOR FURTHER INFORMATION CONTACT:

Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Fresno, California 93721; telephone: (559) 487-5110, Fax: (559) 487-5906; or Kathleen M. Finn, 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 this proceeding 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.

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an

irreconcilable conflict with the proposals.

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. A handler is afforded the opportunity for a hearing 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 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.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments were recommended by the committee and initially submitted to USDA on March 15, 2005. Additional information was submitted in October 2005 at the request of USDA and a determination was subsequently made to schedule this matter for hearing.

The proposed amendments to the order recommended by the committee are summarized as follows:

1. Amend § 959.42 of the order to authorize establishment of supplemental assessment rates for onions packed in specified containers.

2. Amend § 959.42 of the order to authorize charging interest and/or late payment fees for assessments not paid within a prescribed time period.

3. Amend § 959.48 of the order to authorize the committee to engage in marketing promotion activities, including paid advertising.

4. Amend § 959.52 of the order to authorize establishment of marking requirements to be placed on containers of onions prior to shipping.

The committee works with USDA in administering the order. These proposals submitted by the committee have not received the approval of USDA. The committee believes that its proposed changes would provide additional tools to assist in the

marketing of South Texas onions and that they would improve the administration and operation of the order.

In addition to the committee proposals, AMS proposes three amendments to the order which are summarized as follows:

5. Amend § 959.84 of the order to require that a continuance referendum be conducted every six years to determine grower support for the order.

6. Amend § 959.23 of the order to limit the number of consecutive terms of office a member can serve on the committee.

7. Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

The AMS proposals are intended to increase industry participation and experience with the order, and to provide a means to measure grower support for the order on a periodic basis, consistent with current USDA policy. The final AMS proposal would allow such changes to the order as may be necessary to conform to any amendment that may result from the hearing.

The public hearing is held for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order; (ii) determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel, except any designated employee of the General Counsel assigned to represent the committee in

this proceeding; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

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. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the South Texas Onion Committee:

Proposal Number 1

3. Revise paragraph (b) of § 959.42 to read as follows:

§ 959.42 Assessments.

(b) Based upon the recommendation of the committee or other available data, the Secretary shall fix a base rate of assessment that handlers shall pay on all onions handled during each fiscal period. Upon recommendation of the committee, the Secretary may also fix supplemental rates on specified containers, including premium containers, identified by the committee and used in the production area.

Proposal Number 2

4. Add a new paragraph (e) to § 959.42 to read as follows:

§ 959.42 Assessments.

(e) If a handler does not pay assessments within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest rate charge at amounts prescribed by the committee with approval of the Secretary.

Proposal Number 3

5. Revise § 959.48 to read as follows:

§ 959.48 Research and Development.

The committee, with approval of the Secretary, may establish or provide for the establishment of production research, marketing research, development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution,

consumption, or efficient production of onions. The expenses of such projects shall be paid from funds collected pursuant to § 959.42.

Proposal Number 4

6. In § 959.52, redesignate paragraphs (b)(5) and (b)(6) as paragraphs (b)(6) and (b)(7) and add a new paragraph (b)(5) to read as follows:

§ 959.52 Issuance of Regulations.

(b) Provide a method, through rules and regulations issued pursuant to this part, for fixing markings on the container or containers, which may be used in the packaging or handling of onions, including appropriate logos or other container markings to identify the contents thereof.

Proposals submitted by USDA:

Proposal Number 5

7. Revise paragraph (a) of § 959.23 to read as follows:

§ 959.23 Term of Office.

(a) The term of office of committee members and their respective alternates shall be for two years and shall begin as of August 1 and end as of July 31. The terms shall be so determined that about one-half of the total committee membership shall terminate each year. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms may not serve as members for at least one year before becoming eligible to serve again. A person who has served less than six consecutive years on the committee may not be nominated to a new two-year term if his or her total consecutive years on the committee at the end of that new term would exceed six years. This limitation does not apply to service on the committee prior to the enactment of this provision and does not apply to alternates.

Proposal Number 6

8. In § 959.84, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

§ 959.84 Termination.

(d) The Secretary shall conduct a referendum within six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether continuance is favored by producers.

Proposal Number 7

9. Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: May 23, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6-8208 Filed 5-26-06; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2006-23709; Airspace Docket No. 06-AAL-02]

Proposed Revision of Class E Airspace; Willow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Willow, AK. Two Standard Instrument Approach Procedures (SIAPs) along with one Standard Instrument Departure (SID) and a published departure procedure (DP) are being developed for the Willow Airport. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Willow, AK.

DATES: Comments must be received on or before July 14, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2006-23709/Airspace Docket No. 06-AAL-02, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the Office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222

West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail: gary.ctr.rolf@faa.gov. Internet address: <http://www.alaska.faa.gov/at>.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2006-23709/Airspace Docket No. 06-AAL-02." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic

Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would establish Class E airspace at Willow, AK. The intended effect of this proposal is to create Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Willow, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs, one SID and a DP (published in the front of the U.S. Terminal Procedures publication) for the Willow Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV (GPS)) RWY 13, Original and (2) RNAV (GPS) RWY 31, Original. The SID will be named the Big Lake One Departure. The DP is unnamed and will be listed in the front of the U.S. Terminal Procedures publication for Alaska. This action would create Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface near the Willow Airport. The proposed airspace is sufficient in size to contain aircraft executing instrument procedures at the Willow Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) Is not a "significant regulatory action" under Executive