Proposed Rules

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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 925

[Doc. No. AMS–SC–17–0082; SC18–925–1 PR]

Grapes Grown in a Designated Area of Southeastern California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the California Desert Grape Administrative Committee (Committee) to decrease the assessment rate established for the 2018 fiscal period and subsequent fiscal periods. This proposed rule also makes administrative revisions to the subpart headings to bring the language into conformance with the Office of Federal Register requirements.

DATES: Comments must be received by April 2, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document 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.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Maria Stobbe, Marketing Specialist or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Maria.Stobbe@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement No. 925 and Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California. Part 925 (referred to as 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 Committee locally administers the Order and is comprised of producers and handlers of grapes operating within the area of production, and a member of the public.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, grape handlers in a designated area of southeastern California are subject to assessments. Funds to administer the Order are derived from such assessments. Assessment fees charged to grape handlers are used by the Committee to fund reasonable and necessary expenses of the program. It is intended that the assessment rate as proposed herein would be applicable to all assessable grapes beginning on January 1, 2018, and continue until amended, suspended, or terminated.

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 proposed rule would decrease the assessment rate for the 2018 and subsequent fiscal periods from $0.030 to $0.020 per 18-pound lug of grapes handled.

The 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 producers and handlers of grapes grown in a designated area of southeastern California, and a member of the public. 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 2016 and subsequent fiscal periods the Committee recommended, and USDA approved, an assessment rate of $0.030 per 18-pound lug of grapes. That rate would continue in effect 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 November 30, 2017 and unanimously recommended 2018 fiscal year expenditures of $119,000, with an estimated cash reserve of $115,000, and an assessment rate of $0.020 per 18-pound lug of grapes. In comparison, last fiscal year's budgeted expenditures were $108,500. The assessment rate of $.020 is $0.010 lower than the rate currently in effect. The 2017 crop, at the higher assessment rate currently in effect, provided more income than required to cover expenses, resulting in an estimated cash reserve of $140,000. The cash reserves are sufficient to supplement this fiscal year's revenues at an assessment rate of $0.020 per 18-pound lug of grapes to fully fund the recommended 2018 budgeted expenditures.

The major expenditures recommended by the Committee for the 2018 fiscal year include $65,000 for management and compliance services, $25,500 in office expenditures, and $28,500 for research. Budgeted expenses for these items in fiscal year 2017 were $50,000 for management and compliance services, $28,330 in office expenditures, and $28,500 for research.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of grapes in the production area, and the level of funds in the authorized reserve. Grape shipments for fiscal year 2018 are estimated at 4,700,000 18-pound lugs, which should provide $94,000 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 $140,000) would be reduced by $25,000 and would be within the maximum permitted by the Order. Section 925.42(a)(2) authorizes the Committee to carry over excess funds into subsequent fiscal years provided that funds in the reserve not exceed approximately one fiscal period's expenses. The Committee may utilize the reserve funds to defray expenses during any fiscal period. The Committee proposes to utilize approximately $25,000 of its carry-over reserve funds to fully fund the fiscal year 2018 proposed budget, while assessing the new fiscal year 2018 crop at the proposed lower rate; thereby maintaining the carry-over reserve fund within the authorized limit allowed 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 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 budget for fiscal year 2018 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) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed 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 businesses 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.

There are approximately 38 producers of grapes in the production area and approximately 14 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

Eleven of the 14 handlers subject to the Order have annual grape sales of less than $7,500,000, according to USDA Market News Service and Committee data. In addition, information from the Committee and USDA's Market News indicates that at least ten of 38 producers have annual receipts of less than $750,000. Thus, it may be concluded that a majority of the grape handlers regulated under the Order and about ten of the producers could be classified as small entities under the SBA's definitions.

This proposal would decrease the assessment rate collected from handlers for the 2018 and subsequent fiscal periods from $0.030 to $0.020 per 18-pound lug of grapes. The Committee unanimously recommended fiscal year 2018 expenditures of $119,000 and an assessment rate of $0.020 per 18-pound lug. The proposed assessment rate of $0.020 is $0.010 lower than the 2017 rate. The quantity of assessable commodity for the 2018 fiscal year is estimated at 4,700,000 18-pound lugs. Thus, the $0.020 rate should provide $94,000 in assessment income. That amount plus the use of reserve funds of $25,000 should be adequate to meet this 2018 fiscal year's expenses. Income derived from handler assessments, 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 2018 fiscal year include $65,000 for management and compliance services, $25,500 in office expenditures, and $28,500 for research. Budgeted expenses for these items in 2017 were $50,000 for management and compliance services, $28,330 in office expenditures, and $28,500 for research.

Funds in the reserve (currently $140,000) would be reduced by $25,000 to be within the maximum permitted by the Order. Section 925.42 provides the Committee authority to carry over excess funds into subsequent fiscal years provided that funds in the reserve do not exceed approximately one fiscal period's expenses. The Committee is authorized to utilize the excess funds to defray expenses during any fiscal period. The Committee proposes to utilize approximately $25,000 of its carry-over reserve funds to fully fund the 2018 proposed budget, while assessing the new 2018 crop at the proposed lower rate; thereby maintaining the carry-over reserve fund within the authorized limit stated in the Order, approximately one fiscal period's expenses.

Prior to arriving at this budget and assessment rate, the Committee considered various options, such as maintaining the current assessment rate and expenditure levels. Alternative expenditure levels were discussed by the Committee, based upon the relative value of various activities to the grape industry. The Committee ultimately determined that 2018 expenditures of $119,000 were appropriate, and the recommended assessment rate and the use of $25,000 from the carry-over financial reserves would provide sufficient revenue to meet its expenses.

A review of historical crop and price information, as well as preliminary information pertaining to the upcoming fiscal period, indicates that the shipping point price for the 2017 season averaged about $21.62 per 18-pound lug of California desert grapes handled. If the 2018 price is similar to the 2017 price, estimated assessment revenue as a percentage of total estimated handler revenue would be 0.09 percent for the 2018 season ($0.020 divided by $21.62 per 18-pound lug).

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the production area. The grape industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 30, 2017, 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 comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large southeastern California grape 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.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

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/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Sections 925.1 through 925.69 are designated as subpart A under a heading to read as follows:

Subpart A—Order Regulating Handling [Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements [Subpart Redesignated as Subpart C]

■ 4. Redesignate ''Subpart—Assessment Rates'' as ''Subpart C Assessment Rates''.

■ 5. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2018, an assessment rate of $0.020 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: February 22, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–04010 Filed 2–28–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[AMS–SC–17–0067; SC17–959–4]

Onions Grown in South Texas; Proposed Amendment to Marketing Order 959

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a proposed amendment to Marketing Order No. 959, which regulates the handling of onions grown in south Texas. The proposed amendment would reduce the size of the South Texas Onion Committee (Committee) and make conforming and clarifying amendments as needed. The amendment would adjust the number of handlers and producers on the Committee to reflect a decrease in the number of onion producers and handlers in recent years.

DATES: Comments must be received by April 30, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Rulemaking Branch Chief, Marketing