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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV98-979-1 FIR]

Melons Grown in South Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the South Texas Melon Committee (Committee) under Marketing Order No. 979 for the 1997-98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess Texas melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT:

Cynthia Cavazos or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 East 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by

contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

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 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 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 issued herein will be applicable to all assessable melons beginning October 1, 1997, 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 continues to decrease the assessment rate established for the Committee for the 1997-98 and

subsequent fiscal periods from \$0.07 per carton to \$0.04 per carton.

The Texas melon 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 South Texas melons. They are familiar with the Committee's needs and with the costs of 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 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely 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, in a telephone vote, unanimously recommended 1997-98 administrative expenses of \$100,000 for personnel, office, and the travel portion of the compliance budget. These expenses were approved in September 1997. The assessment rate and funding for research projects, promotion, and the road guard station maintenance portion of the compliance budget were to be recommended at a later Committee meeting.

The Committee subsequently met on December 16, 1997, and unanimously recommended 1997-98 expenditures of \$158,200 and an assessment rate of \$0.04 per carton of melons. In comparison, last year's budgeted expenditures were \$308,000. The assessment rate of \$0.04 is \$0.03 lower than the rate previously in effect. At the former rate of \$0.07 per carton, the assessment income would have exceeded anticipated expenses by about \$112,700, and the projected reserve of \$234,269 on September 30, 1998, would have exceeded the level the Committee believes to be adequate to administer the program. The Committee voted to lower its assessment rate and use more of the reserve to cover its expenses. The

reduced assessment rate is expected to bring assessment income closer to the amount necessary to administer the program for the 1997–98 fiscal period.

Major expenses recommended by the Committee for the 1997–98 fiscal year include \$84,500 for personnel and administrative expenses, \$40,500 for compliance, \$23,200 for research projects, and \$10,000 for promotion. Budgeted expenses for these items in 1996–97 were \$84,500, \$115,500, \$108,000, and \$0, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas melons. Melon shipments for the year are estimated at 3,870,000 cartons, which should provide \$154,800 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently \$228,669) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; \$ 979.44).

The assessment rate established in this rule will 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 is effective for an indefinite period, the Committee will 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 will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The remainder of the Committee's 1997–98 budget was approved December 23, 1997, and those for subsequent fiscal periods will 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 action on small entities. Accordingly, AMS has prepared this final 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 producers of South Texas melons in the production area and approximately 16 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (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 South Texas melon producers and handlers may be classified as small entities.

This rule continues in effect the assessment rate of \$0.04 per carton established for the Committee and collected from handlers for the 1997–98 and subsequent fiscal periods. The Committee unanimously recommended 1997–98 expenditures of \$158,200 and an assessment rate of \$0.04 per carton of melons. In comparison, last year's budgeted expenditures were \$308,000. The assessment rate of \$0.04 is \$0.03 less than the rate previously in effect. At the former rate of \$0.07 per carton and an estimated 1998 melon production of 3,870,000 cartons, the projected reserve on September 30, 1998, would have exceeded the level the Committee believes necessary to administer the program. The Committee decided that an assessment rate of less than \$0.04 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1997–98 fiscal period include \$84,500 for personnel and administrative expenses, \$40,500 for compliance, \$23,200 for research projects, and \$10,000 for promotion. Budgeted expenses for these items in 1996–97 were \$84,500, \$115,500, \$108,000, and \$0, respectively.

Melon shipments for the year are estimated at 3,870,000 cartons, which should provide \$154,800 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently \$228,669) will be kept within the maximum permitted by the order

(approximately two fiscal periods' expenses; \$ 979.44).

Recent price information indicates that the grower price for the 1997–98 marketing season will range between \$7.00 and \$9.00 per carton of cantaloupes and between \$5.00 and \$7.00 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between .006 and .004 percent for cantaloupes and between .008 and .006 percent for honeydew melons.

This rule continues to decrease the assessment obligation imposed on handlers. While this rule imposes 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 are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was 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 December 16, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large South Texas melon 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.

An interim final rule concerning this action was published in the **Federal Register** on January 29, 1998 (63 FR 4366). The interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on March 30, 1998, and no comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

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 amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 979 which was published at 63 FR 4366 on January 29, 1998, is adopted as a final rule without change.

Dated: May 4, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-12291 Filed 5-7-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 97-ANE-40-AD; Amendment 39-10514; AD 98-10-03]

RIN 2120-AA64

Airworthiness Directives; Allison Engine Company Model 250-C47B Turboshift Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) 97-21-09, applicable to Allison Engine Company Model 250-C47B turboshaft engines, that currently requires replacing the engine main electrical harness assembly with an improved assembly, installing a new hydromechanical unit (HMU) and electronic control unit (ECU), removing the placard notifying the pilot that the overspeed protection system is disabled, and revising the Bell Helicopter Textron, A Division of Textron Canada Ltd. (BHTC), Model 407 Rotorcraft Flight Manual (RFM). This amendment continues the requirements of the current AD, but adds the requirement to install ECUs with improved resistance to corrosion. This amendment is prompted by reports of ECUs with unannounced hard faults due to corrosion on internal connectors. The actions specified by this AD are intended to prevent uncommanded inflight engine shutdowns, which can

result in autorotation, forced landing, and possible loss of the helicopter.

DATES: Effective May 26, 1998.

The incorporation by reference of Allison Engine Company Alert Commercial Engine Bulletin (CEB) CEB-A-73-6010, dated October 15, 1996, CEB A-73-6015, Revision 1, dated July 30, 1997, and Revision 2, dated October 31, 1997, and BHTC Flight Manual BHT-407-FM-1, Revision 5, dated June 24, 1997, as listed in the regulations, was approved previously by the Director of the Federal Register as of December 3, 1997 (62 FR 61438, November 18, 1997).

The incorporation by reference of Allison Engine Company Alert CEB-A-73-6017, Revision 1, dated February 18, 1998, and Revision 2, dated April 9, 1998, is approved by the Director of the Federal Register as of May 26, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 7, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97-ANE-40-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Allison Engine Company, P.O. Box 420, Speed Code P-40A, Indianapolis, IN 46206-0420; telephone (317) 230-2720, fax (317) 230-3381. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294-7134, fax (847) 294-7834.

SUPPLEMENTARY INFORMATION: On November 10, 1997, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 97-21-09, Amendment 39-10162 (62 FR 61438, November 18, 1997), to require replacing the engine main electrical harness assembly with an improved assembly, installing a new hydromechanical unit (HMU) and electronic control unit (ECU), removing the placard notifying the pilot that the overspeed protection system is disabled,

and revising the Bell Helicopter Textron, A Division of Textron Canada Ltd. (BHTC) Model 407 Rotorcraft Flight Manual (RFM). That action was prompted by development of overspeed protection system modifications to reactivate the overspeed solenoid (which had been disabled in accordance with AD 96-24-09 to prevent engine shutdown due to zero fuel flow when tripped) in conjunction with raising the power turbine overspeed trip point and revising the overspeed system to default to a minimum fuel flow in the event of its activation. That condition, if not corrected, could result in uncommanded inflight engine shutdowns, which can result in autorotation, forced landing, and possible loss of the helicopter.

Since the issuance of that AD, the FAA received reports of two BHTC 407 rotorcraft involved in incidents where there was an unannounced hard fault with the ECU. In each case, the result was a failed fixed event in which the pilot transitioned to manual mode without incident. The hard faults have been attributed to corrosion on internal connectors. Subsequent to the incidents, the manufacturer conducted an initial investigation on returned ECUs and found two additional units with corrosion on internal connectors.

The FAA has reviewed and approved the technical contents of Allison Engine Company Alert CEB-A-73-6017, Revision 1, dated February 18, 1998, and Revision 2, dated April 9, 1998, that describes procedures for installing ECUs with improved resistance to corrosion.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes AD 97-21-09 and continues to require replacement of the engine main electrical harness assembly with an improved assembly, and, after replacing the ECU and HMU, removing the "OVRSPD SYSTEM INOP" placard required by paragraph (d) of AD 96-24-09, revising the BHTC Model 407 RFM. These actions are now required prior to further flight, if not already accomplished. In addition, this AD adds a requirement to install an ECU with improved resistance to corrosion within 45 days after the effective date of this AD, based upon the need to protect the affected engines against effects of corrosion. Installation of the improved, corrosion resistant ECU will meet the requirement to install a new ECU. The requirements of paragraph (c) of this AD have been coordinated with the Rotorcraft Directorate. The actions are required to be accomplished in