

area (South Florida). This rule was established prior to Hurricane Andrew when avocados were plentiful. Shipments of poorer quality avocados to the markets within the production area depressed prices for better quality avocados and resulted in lower overall returns to producers. Plentiful supplies of avocados had allowed for higher quality avocados to be offered at a relatively lower cost, encouraging consumption by presenting a higher quality product.

However, Hurricane Andrew, in August of 1992, reduced production acreage from approximately 9,000 acres to less than 6,000 acres with many non-producing trees in the remaining acreage. Production in the 1991-92 season was 1,110,105 bushels. In the 1992-93 season, production fell to 283,666 bushels and in the 1993-94 season it was at 174,712 bushels. In response to this reduced production the committee requested and was granted a temporary suspension of grade requirements for fresh avocados shipped in certain containers to destinations within the production area in Florida. The relaxation for the 1993-94 season was published as a final rule at 58 FR 34684, on June 29, 1993, and for the 1994-95 season by a final rule published at 59 FR 33417 on June 29, 1994. These temporary relaxations were requested and granted under the assumption that production would return to pre-Hurricane Andrew levels.

Although the 1994-95 season recovered to 778,951 bushels, it is still well below the levels reached prior to the hurricane. Also, changing economic and environmental priorities of the South Florida area are capping the growth on Florida avocado production. Future production is expected to remain flat at approximately 700,000 bushels annually, or to increase only slightly. The committee considers production levels set prior to Hurricane Andrew as unattainable.

The temporary grade relaxations of the last two seasons were successful in making additional supplies of fruit available to meet consumer needs consistent with crop and market conditions. The relaxations demonstrated that there is a market for lower quality avocados in the production area. Also, better quality avocados did not suffer depressed prices due to the availability of the lower quality fruit.

The container and marking requirements clearly identify graded avocados from non-graded avocados. Those avocados sold in the production area which are not subject to grade cannot be packed in regulated

containers. This allows customers to readily identify graded versus those not meeting grade.

This relaxation will provide Florida avocado growers and handlers with an opportunity to sell, in the production area, fresh avocados which would otherwise be culled during the packing process, thus making additional avocados available to consumers. This rule is expected to facilitate the movement of fresh market avocados sold within the production area.

This relaxation will only apply to Florida avocados shipped to destinations within the production area. Thus, the U.S. No. 2 grade requirement will continue to apply unchanged to avocados shipped to destinations outside the production area, as well as to all avocados shipped to any destination in those containers whose size and type are specified in § 915.305. Also unchanged by this action are current maturity, container, pack and inspection requirements for all fresh Florida avocado shipments under the avocado marketing order.

Avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since this rule does not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 for avocados handled to points outside the production area, there is no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e-1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

This rule reflects the committee's and the Department's appraisal of the need to relax the grade requirements for certain avocados grown in Florida. The Department's view is that this action will have a beneficial impact on producers and handlers since it will permit avocado handlers to make additional supplies of fruit available to meet consumer needs consistent with crop and market conditions.

Based on these considerations, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this interim final rule, as

hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action relaxes grade requirements currently in effect for avocados grown in Florida; (2) Florida avocado handlers are aware of this action which was unanimously recommended by the committee at a public meeting, and they will need no additional time to comply with the relaxed requirements; (3) since Florida avocado shipments began on May 29, 1995, this rule needs to be in effect as soon as possible to cover as much of the crop as possible; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 915.306 is amended by revising paragraph (a)(7) to read as follows:

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) * * *

(7) Notwithstanding the provisions in this section, such avocados may be handled not subject to the grade requirements specified in paragraph (a)(1) of this section when they are shipped in containers other than those authorized under § 915.305 to destinations within the production area.

* * * * *

Dated: August 11, 1995.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-20352 Filed 8-16-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 927

[Docket No. FV95-927-11FR]

Expenses and Assessment Rate for the 1995-96 Fiscal Year; Winter Pears Grown in Oregon, Washington, and California**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the Winter Pear Control Committee (Committee) under Marketing Order No. 927 for the 1995-96 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer the program are derived from assessments on handlers.

DATES: Effective beginning July 1, 1995, through June 30, 1996. Comments received by September 18, 1995 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, Fax # (202) 720-5698. 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.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone: (202) 720-5127; or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, Green-Wyatt Federal Building, room 369, Portland, Oregon, telephone: (503) 326-2724.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 927 (7 CFR Part 927) regulating the handling of winter pears grown in Oregon, Washington, and California. The 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 of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, winter pears grown in Oregon, Washington, and California are subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable pears handled during the 1995-96 fiscal year, which begins July 1, 1995, and ends June 30, 1996. This interim final 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 requesting 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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 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 90 handlers of winter pears regulated under the marketing order each season and approximately 1,850 winter pear producers in Oregon, Washington, and California. Small agricultural producers have been defined by the Small

Business Administration [13 CFR § 121.601] as those having annual receipts of 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 these handlers and producers may be classified as small entities.

The Oregon, Washington, and California winter pear marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable winter pears handled from the beginning of such year. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of Oregon, Washington, and California winter pears. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committee's budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by expected shipments of pears. Because this rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The Committee met June 27, 1995, and unanimously recommended total expenses of \$7,384,440 for the 1995-96 fiscal year. In comparison, the 1994-95 fiscal year expense amount was \$6,835,926, which is \$548,514 less than the amount recommended for the current fiscal year.

The Committee also unanimously recommended an assessment rate of \$0.405 per standard box, or equivalent for winter pears. The Committee did not recommend a supplemental assessment rate for Anjou variety pears this fiscal year. In comparison, this rate of assessment is \$0.025 less than the \$0.43 assessment rate approved for the 1994-95 fiscal year.

The rate of assessment, when applied to anticipated winter pear shipments of 16,171,000 boxes or equivalent, will yield a total of \$6,549,296 in assessment income. Assessment income, along with \$340,000 from other income sources, and \$645,144 from the Committee's reserve funds, will be adequate to cover budgeted expenses.

Major expense categories for the 1995-96 fiscal year include \$6,064,163 for advertising, \$417,934 for contingency, \$323,422 for winter pear improvement, and \$147,152 for salaries.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations 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.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year for the Committee began July 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable winter pears handled during the fiscal year; (3) handlers are aware of this action which was recommended by the Committee at public meetings and which is similar to budgets issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 927

Marketing agreements and orders, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 927 is amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new § 927.235 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 927.235 Expenses and assessment.

Expenses of \$7,384,440 by the Winter Pear Control Committee are authorized and an assessment rate of \$0.405 per standard box, or equivalent, on assessable winter pears is established for the fiscal year ending June 30, 1996. Unexpended funds may be carried over as a reserve.

Dated: August 11, 1995.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-20353 Filed 8-16-95; 8:45 am]

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7 CFR Parts 932 and 944

[Docket No. FV95-932-1IFR]

Olives Grown in California and Imported Olives; Establishment of Limited Use Olive Grade and Size Requirements During the 1995-96 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes the use of smaller sized olives in the production of limited use styles for California olives during the 1995-96 crop year. This rule is intended to allow more olives into fresh market channels and is consistent with current market demand for olives. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this rule also changes the import regulation so that it conforms with the requirements established under the California olive marketing order.

DATES: Effective August 21, 1995; comments received by September 18, 1995 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, or by facsimile at 202-720-5698. All comments should reference the docket 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.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102-B, Fresno, CA 93721, telephone (209) 487-5901; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-5127.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932 (7 CFR Part 932), as amended, regulating the handling of olives 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.

This rule is also issued under section 8e of the Act, which requires the Secretary of Agriculture to issue grade, size, quality, or maturity requirements for certain listed commodities, including olives, imported into the United States that are the same as, or comparable to, those imposed upon the domestic commodities regulated under the Federal marketing orders.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. 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 608(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 requesting a modification of the order or to be exempted therefrom. A 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted