

2. A new § 959.236 is added to read as follows:

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

§ 959.236 Expenses.

Expenses of \$239,250 by the South Texas Onion Committee are authorized for the fiscal period ending July 31, 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. 95-20356 Filed 8-16-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 981

[Docket No. FV95-981-1FIR]

Almonds Grown in California; Expenses and 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 authorizing expenditures and establishing an assessment rate under Marketing Order No. 981 for the 1995-96 crop year. Authorization of this budget enables the Almond Board of California (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Kate Nelson, Marketing Assistant, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487-5901 or FAX # (209) 487-5906; or Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522-S, Washington, DC 20090-6456, telephone (202) 720-1509 or FAX # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), both as amended, hereinafter referred to as the "order," regulating the handling of almonds grown in California. 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 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. Under the provisions of the marketing order now in effect, California almonds are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable almonds handled during the 1995-96 crop year, which began July 1, 1995, and ends June 30, 1996. 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), 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the 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 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 7,000 producers of California almonds under this marketing order, and approximately 115 handlers. 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 California almond producers and handlers may be classified as small entities.

The budget of expenses and rate of assessment for the 1995-96 crop year was prepared by the Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of California almonds. They are familiar with the Board'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. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected receipts of California almonds. The Board also considered carryin and reserve funds from the prior year as well as desired carryout funds at the end of the 1995-96 crop year. Because that rate will be applied to handlers' actual receipts, a rate must be established that will provide sufficient income to pay the Board's budgeted expenses.

The Board met on May 12, 1995, and unanimously recommended a 1995-96 budget of \$4,952,591, as compared to the \$5,235,262 ultimately budgeted for the previous year. For the 1994-95 year, the Board initially recommended, and the Department approved, expenditures totalling \$9,435,262. Of that total amount, \$6.575 million was budgeted for promotional activities and \$300,000 was intended to be added to the Board's monetary reserve. The assessment rate for the 1994-95 crop year was initially set at 2.25 cents per kernel pound of almonds. However, because of uncertainty created by legal decisions regarding the Board's former advertising and promotion program, the Board ultimately postponed certain advertising activities and recommended reducing its assessment rate on handlers to .25 cents per pound. As approved by the Department, budgeted expenditures for promotional activities were reduced to \$2.675 million and the Board curtailed its plans to add \$300,000 to its reserve.

For the 1995-96 year, the Board has budgeted \$2.358 million for a line item entitled information and research, with the bulk of these funds targeted for public relations, food service and industrial promotional programs, and research. In addition, the Board has budgeted \$150,000 for China and

Indonesia Consumer Education, thus maintaining a presence in foreign markets. Unlike the 1994-95 crop year, the Board will not be receiving any funds through the marketing promotion program conducted by the Department's Foreign Agricultural Service for the 1995-96 crop year.

Items which have decreased compared to those budgeted for 1994-95 (in parentheses) are: Salaries, \$598,251 (\$795,318), employee benefits, \$37,391 (50,000), retirement benefits, \$44,869 (\$64,000), payroll taxes, \$45,766 (\$55,400), travel, \$75,000 (\$100,000), meetings, \$13,000 (\$35,000), office rent, \$70,000 (\$90,000), storage rent, \$4,000 (\$5,000), equipment rent, \$3,000 (\$5,000), security, \$1,000 (\$2,500), utilities, \$12,000 (\$13,500), alliances with other organizations to provide information on almonds to consumers, \$11,000 (\$20,000), econometric model and statistical analysis, \$10,000 (\$40,000), program accountability analyses to assess the effectiveness of the advertising and market development programs, \$100,000 (\$150,000), furniture and fixtures, \$0 (\$10,000), and computers and software, \$20,000 (\$25,000).

Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Research conference, \$30,000 (\$25,000), contract labor and consultants, \$55,000 (\$30,000), compliance audits and analysis, \$95,000 (\$75,000), data processing, \$10,000 (\$6,000), postage and delivery, \$40,000 (\$32,000), office supplies, \$17,500 (\$15,000), printing, \$17,500 (\$12,000), repairs and maintenance, \$15,500 (\$12,500), publications, \$15,500 (\$3,500), dues, subscriptions, and registration fees, \$12,000 (\$7,500), newsletters and releases, \$45,000 (\$25,000), production research, \$512,650 (\$489,134), crop estimate, \$90,736 (\$85,600), acreage survey, \$37,429 (\$35,310), nutrition and issues research, \$175,000 (\$50,000), vehicles, \$20,000 (\$15,000), office equipment, \$20,000 (\$15,000), and the addition of \$25,000 for aflatoxin monitoring.

The Board also unanimously recommended an assessment rate of .75 cents per kernel pound, .50 cents higher than last year. Based on an initial May estimate of 412.8 million pounds of marketable almonds, revenue for the 1995-96 crop year from administrative assessments was expected to be \$3,096,000. However, the estimate for marketable almonds for the 1995-96 crop has decreased to 297.6 million pounds. Thus, estimated revenue from administrative assessments has decreased to \$2.232 million. Other

anticipated revenue includes \$100,000 from interest and \$16,000 from the almond industry conference, which brings the estimate for total revenue for the 1995-96 almond season to \$2,348,000. The Board plans on using money from its reserve to meet the estimated expenses of \$4,952,591 for the year. In addition, any unexpended funds from 1995-96 may be carried over to cover expenses during the first four months of the 1996-97 crop year.

An interim final rule regarding this action was published in the June 21, 1995, issue of the **Federal Register** (60 FR 32262). That rule provided for a 30-day comment period. No comments were received.

This action will impose an obligation on handlers to pay assessments. The assessments are uniform for all handlers. The assessment cost will be offset by the benefits derived by 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 Board 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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995 crop year began on July 1, 1995, and the marketing order requires that the rate of assessment apply to all assessable almonds during the crop year; and (3) an interim final rule was published on this action and provided for a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 981, authorizing expenditures and establishing an assessment rate under Marketing Order

981 for the 1995-96 crop year, which was published at 60 FR 32262 on June 21, 1995, is adopted as a final rule without change.

Dated: August 11, 1995.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-20354 Filed 8-16-95; 8:45 am]

BILLING CODE 3410-02-P

Grain Inspection, Packers and Stockyards Administration

9 CFR Parts 201 and 203

RIN 0580-AA43

Regulations and Statements of General Policy Issued Under the Packers and Stockyards Act: Definitions, Industry Rules, Schedules of Rates and Charges, Proceeds of Sales, Accounts and Records, Trade Practices, Stockyard Services, Brand Inspection, and Buyers Expenses

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: Proposed amendments to rules issued under the Packers and Stockyards (P&S) Act (7 U.S.C. 181 *et seq.*) were published in the **Federal Register** (59 FR 26763) on May 24, 1994, and identified as Group I. This document adopts proposed changes which remove two regulations regarding posting and deposting of stockyards, amend one trade practice regulation and retain 14 regulations and 3 statements of general policy in their present form.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Van Ackeren, Director, Livestock Marketing Division (202) 720-6951, or Tommy Morris, Director, Packer and Poultry Division (202) 720-7363.

In response to the proposed rule published in the **Federal Register** (59 FR 26763), the Agency received one comment from a livestock trade association, that commented on regulations § 201.5, § 201.6, and § 201.61 and statement of general policy § 203.5.

The commenter concurs with the deletion of § 201.5 which pertains to Agency procedures on posting a stockyard and § 201.6 which regards Agency deposting procedures. Both of these regulations involve procedural steps taken by the Agency in posting and deposting stockyards which are specified by the P&S Act. These two regulations are primarily informational