

Federal FMNP funds made available for the fiscal year to reimburse expenses incurred by the FMNP during a preceding fiscal year. The State agency shall provide such justification for its request to spend back funds under this paragraph as FNS may require.

(j) *Recovery of unused funds.* State agencies shall return to FCS any unexpended funds made available for a fiscal year by February 1 of the following fiscal year.

(k) *Reallocation of funds.* Any funds recovered under paragraphs (d)(3) and (j) of this section will be reallocated in accordance with the appropriate method determined by FCS.

9. In § 248.16 the second sentence in paragraph (f) is revised to read as follows:

**§ 248.16 Administrative appeal of State agency decisions.**

\* \* \* \* \*

(f) *Additional appeals procedures for State agencies which authorize farmers' markets and not individual farmers.*

\* \* \* A State agency which authorizes farmers' markets and not individual farmers shall ensure that procedures are in place to be used when a farmer seeks to appeal an action of a farmers' market or association denying the farmer's application to participate, or sanctioning or disqualifying the farmer.

10. In § 248.17:

a. The third sentence of the introductory text of paragraph (b) is revised.

b. The first sentence of paragraph (c)(1)(i) is revised.

c. Two new sentences are added at the end of paragraph (c)(1)(ii).

The revisions and additions read as follows:

**§ 248.17 Management evaluations and reviews.**

\* \* \* \* \*

(b) *Responsibilities of FCS.* \* \* \*

These evaluations shall also include reviews of selected local agencies, and on-site reviews of selected farmers'/farmers' markets. \* \* \*

\* \* \* \* \*

(c) *Responsibilities of State agencies.*

\* \* \*

(1) \* \* \*

(i) Annual monitoring reviews of participating farmers'/farmers' markets, including on-site reviews of a minimum of 10 percent of farmers and 10 percent of farmers' markets, which includes those farmers and markets identified as being the highest risk. First year of operation in the FMNP shall be considered a high-risk indicator. \* \* \*

(ii) \* \* \* WIC State agency reviews of local agencies conducted for the WIC

Program may contribute to meeting the FMNP requirement that all local agencies be reviewed once every two years if the reviews include reviews of FMNP practices. When the WIC State agency conducts a review of the local agency outside of the FMNP season, a review of documents and procedural plans of the FMNP, rather than actual FMNP activities, is acceptable.

\* \* \* \* \*

11. In § 248.25, paragraph (a) is revised to read as follows:

**§ 248.25 FMNP information.**

\* \* \* \* \*

(a) Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, Northeast Region, 10 Causeway Street, Room 501, Boston, Massachusetts 02222-1066.

\* \* \* \* \*

12. Section 248.26 is revised to read as follows:

**§ 248.26 OMB control number.**

The collecting of information requirements for Part 248 have been approved by the Office of Management and Budget and assigned OMB control number 0584-0477.

Dated: September 20, 1995.  
William E. Ludwig,  
*Administrator, Food and Consumer Service.*  
[FR Doc. 95-23950 Filed 9-26-95; 8:45 am]  
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**Agricultural Marketing Service**

**7 CFR Part 906**

[Docket No. FV95-906-2-FIR]

**Expenses and Assessment Rate for the Marketing Order Covering Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, with appropriate modifications, the provisions of an interim final rule that authorized expenses and established an assessment rate for the Texas Valley Citrus Committee (TVCC) under Marketing Order No. 906 for the 1995-96 fiscal year. Authorization of this budget enables the TVCC to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

**DATES:** Effective beginning August 1, 1995, through July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone: (202) 690-3670; or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen Texas 78501, telephone: (210) 682-2833.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Order No. 906 (7 CFR part 906) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. 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 final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, Texas oranges and grapefruit are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges and grapefruit handled during the 1995-96 fiscal year, which begins August 1, 1995, and ends July 31, 1996. This 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 15 handlers of oranges and grapefruit regulated under the marketing order each season and approximately 750 orange and grapefruit producers in Texas. 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 Texas orange and grapefruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable oranges and grapefruit handled from the beginning of such year. Annual budgets of expenses are prepared by the TVCC, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the TVCC are handlers and producers of Texas oranges and grapefruit. They are familiar with the TVCC'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 TVCC's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

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

The TVCC met on May 16, 1995, and unanimously recommended expenses of \$1,035,000 and an assessment rate of \$0.10 per  $\frac{7}{10}$  bushel carton. In comparison, budgeted expenses for the 1994-95 fiscal year were \$1,161,244,

which is \$126,244 more than the \$1,035,000 recommended for the 1995-96 fiscal year. The assessment rate of \$0.10 is \$0.06 less than last season's assessment rate of \$0.16.

The TVCC met again on August 15, 1995, and unanimously recommended revised expenses of \$1,008,643. The recommended assessment rate remains at \$0.10 per  $\frac{7}{10}$  bushel carton.

The TVCC's reduced expenses are a result of the signing of a joint management agreement with the Texas Citrus and Vegetable Association.

Major expense categories for the 1995-96 fiscal year include \$500,000 for advertising, \$180,000 for compliance operations, and \$174,000 for the Mexican Fruit Fly support program.

Assessment income for the 1995-96 fiscal year is estimated at \$832,500 based upon anticipated fresh domestic shipments of 8,325,000 cartons of oranges and grapefruit. This, in addition to a withdrawal of \$167,143 from the TVCC's reserve fund, and \$9,000 estimated interest income should be adequate to cover budgeted expenses. In comparison, the assessment income for the 1994-95 fiscal year was estimated at \$960,000 based upon anticipated fresh domestic shipments of 6 million cartons of oranges and grapefruit.

Funds in the reserve at the end of the 1995-96 fiscal year are estimated at \$315,433. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

The TVCC budget was authorized by an interim final rule issued on June 15, 1995, and published in the Federal Register [60 FR 32257, June 21, 1995]. A 30-day comment period was provided for interested persons. No comments were received. Although no comments were received, the TVCC met subsequent to the issuance of the interim final rule and recommended a reduction in budgeted expenses for the 1995-96 fiscal year. The recommended reduction from \$1,035,000 to \$1,008,643 is incorporated in this final rule.

While this action will impose 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 will be 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.

It is found that the specified expenses for the marketing order covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such

expenses 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 action until 30 days after publication in the Federal Register because: (1) The TVCC needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995-96 fiscal year for the TVCC began August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable oranges and grapefruit handled during the fiscal year; and (3) handlers are aware of this action which was recommended by the TVCC at a public meeting and published in the Federal Register as an interim final rule that is adopted in this action as a final rule with a minor modification.

#### List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements and orders, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

#### **PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS**

1. The authority citation for 7 CFR part 906 continues to read as follows:

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

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

2. The interim amendment to 7 CFR part 906 which was published at 60 FR 32257 on June 21, 1995, is adopted as a final rule with the following change:

#### **§ 906.235 [Corrected]**

On page 32258, second column, in the regulatory text, the reference to "\$1,035,000" is corrected to read "\$1,008,643."

Dated: September 20, 1995.

Sharon Bomer Lauritsen,  
Deputy Director, Fruit and Vegetable Division.  
[FR Doc. 95-23895 Filed 9-26-95; 8:45 am]

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#### **7 CFR Part 993**

[Docket No. FV95-993-1FIR]

#### **Dried Prunes Produced in California; Expenses and Assessment Rate**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as