

and, in addition, the proposed rule allowed only a 30-day comment period.

Accordingly, the program fees are being increased as set forth below.

Program Changes Adopted in the Final Rule

This document makes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increases the hourly fee for nonresident services from \$47.20 to \$48.00 for services performed between 6 a.m. and 6 p.m. and from \$52.00 to \$52.80 for services performed between 6 p.m. and 6 a.m.

The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Increases the hourly fee for continuous resident services from \$42.20 to \$43.00.

The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round, resident basis.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 58 is amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for Part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In Part 58, subpart A, § 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in sections 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of \$48.00 for service performed between 6 a.m. and 6 p.m., and \$52.80 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates

and reports and the travel time of the inspector and grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in sections 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of \$43.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: September 25, 1995.
M. Michael Holbrook,
Acting Administrator.
[FR Doc. 95–24122 Filed 9–27–95; 8:45 am]
BILLING CODE 3410–02–P

7 CFR Part 928

[Docket No. FV95–928–1FIR]

Papayas Grown in Hawaii; Expenses and Assessment Rate for the 1995–96 Fiscal Year

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 the interim final rule which authorized expenses and established an assessment rate for the Papaya Administrative Committee (Committee) under M.O. No. 928 for the 1995–96 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.
EFFECTIVE DATE: July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Karen T. Chaney, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456, telephone: (202) 720–5127; or Martin Engler, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102 B, Fresno, California 93721, telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 928 [7 CFR Part 928], regulating the handling of papayas grown in Hawaii. 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 final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, papayas grown in Hawaii are subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable papayas handled during the 1995–96 fiscal year, beginning July 1, 1995, through June 30, 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 120 handlers of papayas regulated under the marketing order each season and approximately 400 papaya producers in Hawaii. 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. A majority of these handlers and producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable papayas 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 Hawaii papayas. 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 a public meeting. 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 papayas. Because that 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 on April 28, 1995, and unanimously recommended expenses totaling \$562,044 for its 1995-96 budget. The Committee met again on July 20, 1995, and unanimously recommended a new budget because the original budget contained inaccuracies. The revised recommendation contained expenses totaling \$465,800 for the 1995-96 budget. This is a \$123,400 reduction in expenses compared to the 1994-95 budget of \$589,200.

The Committee also unanimously recommended an assessment rate of \$.0089 per pound for the 1995-96 fiscal year, which is the same as was recommended for the 1994-95 fiscal year. The assessment rate, when applied to anticipated shipments of 33 million pounds, would yield \$293,700 in assessment income. Other sources of program income include \$40,000 from the Hawaii Department of Agriculture, \$57,000 from the USDA's Foreign Agricultural Service, \$7,800 from the Japanese Inspection program, \$3,000 in

interest income, and \$4,766 from the County of Hawaii. Income from all sources will be adequate to cover estimated expenses.

Major expense categories for the 1995 fiscal year include \$165,500 for the market expansion program, \$145,000 for research and development, and \$67,600 for salaries. Funds in the reserve at the end of the 1995-96 fiscal year, estimated at \$112,279 will be within the maximum permitted by the order of one fiscal year's expenses.

An interim final rule was published in the Federal Register [60 FR 43352, August 21, 1995] and provided a 30-day comment period for interested persons. No comments were received.

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 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.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register [5 U.S.C. 553] because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal year for the program began July 1, 1995. The marketing order requires that the rate of assessment apply to all assessable papayas handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting and published in the Federal Register as an interim final rule. No comments were received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

PART 928—PAPAYAS GROWN IN HAWAII

Accordingly, the interim final rule amending 7 CFR part 928 which was

published at 60 FR 43351 on August 21, 1995, is adopted as a final rule without change.

Dated: September 22, 1995.
Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-24044 Filed 9-27-95; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Part 929

[Docket No. FV95-929-2FIR]

Expenses and Assessment Rate for the 1995-96 Fiscal Year for the Marketing Order Covering Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

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 the interim final rule which authorized expenses and established an assessment rate for the Cranberry Marketing Committee (Committee) under Marketing Order No. 929 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 this program are derived from assessments on handlers.

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

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kathleen M. Finn, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone: (202) 720-5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 929 (7 CFR Part 929), as amended, regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, 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".

The Department is issuing this rule in conformance with Executive Order 12866.