

grapefruit is U.S. No. 2. This interim final rule provides that pack size 112 grapefruit may be shipped throughout the entire 1995-96 season if such grapefruit grade at least U.S. No. 1. This relaxation is similar to the relaxations which were issued for the 1993-94 and 1994-95 seasons.

Permitting shipments of pack size 112 grapefruit grading at least U.S. No. 1 for the remainder of the 1995-96 season will enable Texas grapefruit handlers to meet market needs and compete with similar sized grapefruit expected to be shipped from Florida.

This relaxation is expected to help the Texas citrus industry successfully market its 1995-96 season grapefruit crop and have a positive effect on producer returns. Permitting shipments of pack size 112 grapefruit grading at least U.S. No. 1 for the entire 1995-96 season will enable Texas grapefruit handlers to meet market needs. This interim final rule is based on the current and prospective crop and market conditions for Texas grapefruit. Fresh Texas grapefruit shipments are expected to begin in late September this season.

This interim final rule reflects the committee's and the Department's appraisal of the need to temporarily relax minimum size requirements for fresh Texas-grown grapefruit, as specified. The Department's view is that this interim final rule will have a beneficial impact on Texas producers and handlers of fresh grapefruit, since it enables such producers and handlers to make available the quality and sizes of grapefruit needed to meet consumer needs consistent with 1995-96 season crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this interim final rule 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 TVCC 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 1995-96 season began September 13; (2) Texas citrus handlers are aware of this relaxation which was recommended by the TVCC at a public

meeting, and they will need no additional time to comply with such requirements; and (3) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, 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 THE 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.

2. Section 906.365 is amended by revising paragraph (a)(4) to read as follows:

§ 906.365 Texas Orange and Grapefruit Regulation 34.

(a) * * *

(4) Such grapefruit are at least pack size 96, except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be $3\frac{9}{16}$ inches: *Provided*, That any handler may handle grapefruit, except during the period November 16 through January 31 each season, which are smaller than pack size 96, if such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be $3\frac{9}{16}$ inches: *Provided further*, That for the period beginning October 23, 1995, and ending June 30, 1996, any handler may handle grapefruit if such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be $3\frac{5}{16}$ inches in diameter.

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Dated: October 17, 1995.
Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-26205 Filed 10-20-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Parts 922, 923, and 924

[Docket No. FV95-922-2FIR]

Expenses and Assessment Rates for the 1995-96 Fiscal Year for Specified Marketing Orders

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 for the 1995-96 fiscal year for Marketing Orders No. 922 and 923, covering apricots and sweet cherries grown in designated counties in Washington, and M.O. No. 924 covering fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. Authorization of these budgets enables the Washington Apricot Marketing Committee, the Washington Cherry Marketing Committee, and the Washington-Oregon Fresh Prune Marketing Committee (Committees) established under these marketing orders to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: April 1, 1995, through March 31, 1996.

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 Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204; telephone: (503) 326-2724.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 922 [7 CFR Part 922] regulating the handling of apricots grown in designated counties in Washington; Marketing Order No. 923 [7 CFR Part 923] regulating the handling of sweet cherries grown in designated counties in Washington; and Marketing Order No. 924 [7 CFR Part 924] regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. The marketing agreements and orders 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. This action authorizes expenses for the 1995-96 fiscal period which began April 1, 1995, through March 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. 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.

Pursuant to 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 about 55 handlers of Washington apricots, 55 handlers of Washington sweet cherries, and 30 handlers of Washington-Oregon fresh prunes subject to regulation under their respective marketing orders. In addition, there are about 190 Washington apricot producers, 1,100 Washington sweet cherry producers, and 350 Washington-Oregon fresh prune producers in the respective production areas. 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.

An annual budget of expenses is prepared by each marketing order committee and submitted to the

Department for approval. The members of the Committees are handlers and producers of the regulated commodities. They are familiar with the Committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each Committee is derived by dividing anticipated expenses by the tons of fresh fruit expected to be shipped under the order. Because the rates are applied to actual shipments, they must be established at rates which will produce sufficient income to pay the Committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the Committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committees will have funds to pay their expenses.

The Washington Apricot Marketing Committee met on May 25, 1995, and unanimously recommended 1995-96 expenses of \$9,594, which is \$4,008 less in expenses than the \$13,602 amount that was recommended for the 1994-95 fiscal year.

Shipments of fresh apricots for the current fiscal year are estimated at 5,150 tons. Funds in the reserve, estimated at \$16,798, will be adequate to cover the recommended expense amount.

The Washington Cherry Marketing Committee also met on March 25, 1995, and unanimously recommended 1995-96 expenses of \$55,393. This represents a decrease of \$44,820 from the \$100,213 recommended for the previous fiscal year.

The Committee anticipates shipments of 41,000 tons of fresh sweet cherries. Funds in the reserve, estimated at \$112,995, will be adequate to cover budgeted expenses.

The Washington-Oregon Fresh Prune Marketing Committee also met on March 25, 1995, and unanimously recommended a 1995-96 expense amount of \$10,018. In comparison, this represents a decrease of \$8,742 in expenses from the \$18,760 that was recommended for 1994-95 fiscal year.

Shipments of fresh prunes for the current fiscal year are estimated at 4,900 tons. Funds in the reserve, estimated at \$16,204, will adequately cover recommended expenses.

Each Committee unanimously voted against having assessment rates for their respective programs for the 1995-96

fiscal year. In comparison, assessment rates for the 1994-95 fiscal year were \$0.50 per ton for fresh apricots, \$1.00 per ton for sweet cherries, and \$1.00 per ton for fresh prunes.

Major expense categories for the Committees are for the administration of these marketing orders. Administrative expenses include \$43,000 for salaries, \$2,700 for travel, and \$15,600 for office operations. The stone fruit marketing Committees share office expenses, based on an agreement among the Committees.

An interim final rule was published in the Federal Register [60 FR 39104, August 1, 1995] and provided a 30-day comment period for interested persons. No comments were received. Since no assessment rates are being recommended at this time, no additional costs will be imposed on handlers. 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 will tend to effectuate the declared policy of the Act.

After consideration of all relevant material presented, including the Committees' recommendations and other available information, it is found that this rule as herein after set forth, 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 because the Committees need to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal year for the program began April 1, 1995. In addition, handlers are aware of this action which was recommended by the Committees 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

7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 924

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 922, 923, and 924 are amended as follows:

1. The authority citation for 7 CFR parts 922, 923, and 924 continues to read as follows:

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

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 922 which was published at 60 FR 39104 on August 1, 1995, is adopted as a final rule without change.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 923 which was published at 60 FR 39104 on August 1, 1995, is adopted as a final rule without change.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 924 which was published at 60 FR 39104 August 1, 1995, is adopted as a final rule without change.

Dated: October 12, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95-26084 Filed 10-20-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 979

[Docket No. FV95-979-11FR]

Melons Grown in South Texas; Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures under Marketing Order No. 979 for the 1995-96 fiscal period. Authorization of this budget enables the South Texas Melon Committee (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 October 1, 1995, through September 30, 1996. Comments received by November 22, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. 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: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, 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 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. 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 interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action authorizes expenditures for the 1995-96 fiscal period, which began October 1, 1995, and ends September 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 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 40 producers of South Texas melons under this marketing order, and approximately 19 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 South Texas melon producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the South Texas Melon Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. 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.

The Committee, in a mail vote completed September 15, 1995, unanimously recommended a 1995-96 budget of \$234,044 for personnel, office, compliance, and road guard station expenses, which is \$26,544 more than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Manager's salary, \$19,094 (\$15,172), office salary, \$24,000 (\$15,600), payroll taxes, \$4,000 (\$3,100), insurance, \$7,000 (\$5,250), accounting and audit, \$2,600 (\$2,300), rent and utilities, \$6,500 (\$4,000), supplies, \$2,000 (\$1,500), postage, \$1,500 (\$1,000), telephone and telegraph,