

Signed at Washington, DC, on July 24, 1996.

Dan Glickman,  
Secretary.

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BILLING CODE 3410-05-P

## Agricultural Marketing Service

### 7 CFR Part 928

[Docket No. FV96-928-1 FIR]

#### Papayas Grown in Hawaii; 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 establishing an assessment rate for the Papaya Administrative Committee (Committee) under Marketing Order No. 928 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of papayas grown in Hawaii. Authorization to assess papaya handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**EFFECTIVE DATE:** July 1, 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, FAX (209) 487-5906, or Charles L. Rush, Marketing Specialist, 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, FAX (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 720-2491, FAX (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 928 and Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the "order." 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 12988, Civil Justice Reform. Under the marketing order now in effect, handlers of papayas grown in Hawaii are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable papayas beginning July 1, 1996, and continuing until amended, suspended, or terminated. 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) 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR

121.601) as those having annual receipts 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 papaya producers and handlers may be classified as small entities.

The papaya marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of papayas grown in Hawaii. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on April 26, 1996, and unanimously recommended 1996-97 expenditures of \$485,300 and an assessment rate of \$0.0059 per pound of papayas. In comparison, last year's budgeted expenditures were \$435,800. The assessment rate of \$0.0059 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996-97 year include \$160,000 for marketing and promotion activities, \$130,000 for research and development, and \$67,000 for salaries. Budgeted expenses for these items in 1995-96 were \$165,500, \$115,000, and \$67,000 respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of papayas grown in Hawaii. Papaya shipments for the year are estimated at 30 million pounds which should provide \$177,000 in assessment income. Income derived from handler assessments, the Hawaii Department of Agriculture, the USDA's Foreign Agricultural Service, the County of Hawaii, and the Japanese Inspection program, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the June 4, 1996, issue of the Federal Register (61 FR 28000). That rule provided for a 30-day comment period. No comments were received.

While this rule will impose some costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the costs may be

passed on to producers. However, these costs should be offset by the benefits derived by the operation of the marketing order. Therefore, the Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. The Committee's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation 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 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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period began on July 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable papayas handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) 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 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

#### **PART 928—PAPAYAS GROWN IN HAWAII**

Accordingly, the interim rule amending 7 CFR part 928 which was published at 61 FR 28000 on June 4, 1996, is adopted as a final rule without change.

Dated: July 25, 1996.  
Sharon Bomer Lauritsen,  
*Acting Director, Fruit and Vegetable Division.*  
[FR Doc. 96-19520 Filed 7-31-96; 8:45 am]  
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### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

##### 14 CFR Part 71

[Airspace Docket No. 95-ANE-11]

RIN 2110-AA66

##### Alteration of V-2 and V-14; NY

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule alters Federal Airways V-2 and V-14 between the Albany, NY, Very High Frequency Omnidirectional Range (VOR) and the Gardner, MA, VOR. This action allows more flexibility for air traffic operations and enhances utilization of that airspace. In addition, the airspace description for V-14 in the notice of proposed rulemaking (NPRM) erroneously included Canadian airspace. This action corrects that error.

**EFFECTIVE DATE:** 0901 UTC, October 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** Patricia P. Crawford, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

##### **SUPPLEMENTARY INFORMATION:**

###### History

On September 21, 1995, the FAA proposed to amend Title 14 of the Code of Federal Regulations part 71 (14 CFR part 71) to alter V-2 and V-14 from the Albany, NY, VOR to the Gardner, MA, VOR (60 FR 48937). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the

FAA. No comments objecting to the proposal were received. Except for editorial changes and the removal of the language to exclude Canadian airspace from V-14, this amendment is the same as that proposed in the notice. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

##### The Rule

This amendment to 14 CFR part 71 alters V-2 and V-14 from the Albany, NY, VOR to the Gardner, MA, VOR. These airways are the primary arrival routes to Boston, MA, from the west. At the present time, the segment of the airways between the Albany VOR and the Gardner VOR is limited to a 10,000-foot minimum en route altitude (MEA). Realignment these airways will allow for a lower MEA to be assigned along these routes and will provide more flexibility for air traffic operations in that area. This alteration will enhance utilization of that airspace. In addition, the airspace description for V-14 in the NPRM erroneously included Canadian airspace. This action corrects that error because V-14 does not penetrate the Canadian airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

##### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows: