

# Rules and Regulations

Federal Register

Vol. 75, No. 44

Monday, March 8, 2010

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Doc. No. AMS-FV-09-0063; FV09-966-2 FIR]

#### Tomatoes Grown in Florida; Decreased Assessment Rate

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

**ACTION:** Affirmation of interim final rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that decreased the assessment rate established for the Florida Tomato Committee (Committee), for the 2009-10 and subsequent fiscal periods from \$0.0375 to \$0.0275 per 25-pound carton of tomatoes handled. The Committee locally administers the marketing order, which regulates the handling of tomatoes grown in Florida. The interim final rule was necessary to align the Committee's expected revenue with decreases in its proposed budget for the 2009-10 and subsequent fiscal periods, which began on August 1. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* March 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (863) 324-3375, *Fax:* (863) 325-8793, or *E-mail:* [Doris.Jamieson@ams.usda.gov](mailto:Doris.Jamieson@ams.usda.gov) or [Christian.Nissen@ams.usda.gov](mailto:Christian.Nissen@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the

following Web site: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>; or by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; *Telephone:* (202) 720-2491, *Fax:* (202) 720-8938, or *E-mail:* [Antoinette.Carter@ams.usda.gov](mailto:Antoinette.Carter@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, 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 of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

Under the order, Florida tomato handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Florida tomatoes handled during the fiscal period and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on August 1, and ends on July 31.

In an interim final rule published in the **Federal Register** on November 4, 2009, and effective on November 5, 2009 (74 FR 57057; Doc. No. AMS-FV-09-0063, FV09-966-2 IFR), § 966.232 was amended by decreasing the assessment rate established for the Committee for the 2009-10 and subsequent fiscal periods from \$0.0375 to \$0.0275 per 25-pound carton or equivalent of Florida tomatoes. The decrease in the per-unit assessment rate was possible due to a significant decrease in education and promotion expenses for 2009-10.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly,

AMS has prepared this final regulatory flexibility analysis.

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.

There are approximately 100 producers of tomatoes in the production area and approximately 70 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2008-09 season was approximately \$8.13 per 25-pound carton, and total fresh shipments for the 2008-09 season were 47,054,853 25-pound cartons of tomatoes. Committee data indicates 10 percent of the handlers handle 56 percent of the total volume shipped outside the regulated area. Based on the average price and the other data available, a majority of handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida tomato growers, the average annual grower revenue is below \$750,000. Thus, the majority of handlers and producers of Florida tomatoes may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2009-10 and subsequent fiscal periods from \$0.0375 to \$0.0275 per 25-pound carton of tomatoes. The Committee unanimously recommended 2009-10 expenditures of \$1,910,500 and an assessment rate of \$0.0275 per 25-pound container of tomatoes. The assessment rate of \$0.0275 is \$0.01 lower than the 2008-09 rate. The quantity of assessable tomatoes for the 2009-10 season is

estimated at 50 million. Thus, the \$0.0275 rate should provide \$1,375,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Market Access Program will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2009–10 fiscal period include \$700,000 for education and promotion, \$475,500 for salaries, \$320,000 for research, and \$70,000 for employee retirement. Budgeted expenses for these items in 2008–09 were \$1,200,000, \$505,500, \$320,000, and \$77,000, respectively.

The Committee recommended the decrease in assessment rate due to the reduction in expenditures for education and promotion.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance, Research, and Education and Promotion Subcommittees. Alternative expenditure levels were discussed by these groups, based upon the relative value of various projects to the tomato industry. The assessment rate of \$0.0275 per 25-pound carton of assessable tomatoes was then determined by dividing the total recommended budget by the quantity of assessable tomatoes, estimated at 50 million 25-pound cartons for the 2009–10 season. Considering income from assessments, interest, and income from other sources, total income will be approximately \$41,500 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2009–10 season could range between \$3.89 and \$19.01 per 25-pound carton of tomatoes. Therefore, the estimated assessment revenue for the 2009–10 season as a percentage of total grower revenue could range between .1 and .7 percent.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 20, 2009, meeting was a public meeting and

all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Comments on the interim final rule were required to be received on or before January 4, 2010. No comments were received. Therefore, for the reasons given in the interim final rule, we are adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a503fc>.

This action also affirms information contained in the interim final rule concerning the Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 57057, November 4, 2009) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

#### PART 966—TOMATOES GROWN IN FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 966, which was published at 74 FR 57057 on November 4, 2009, is adopted as a final rule, without change.

Dated: March 2, 2010.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2010–4779 Filed 3–5–10; 8:45 am]

**BILLING CODE P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[NRC–2007–0008]

RIN 3150–AI01

#### Alternate Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock Events; Correcting Amendment

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is revising its regulations to add a table that was inadvertently omitted in a correction document published on February 3, 2010 (75 FR 5495). The February 3, 2010 document corrected a final rule published on January 4, 2010 (75 FR 13), that amends the NRC's regulations to provide alternate fracture toughness requirements for protection against pressurized thermal shock (PTS) events for pressurized water reactor (PWR) pressure vessels.

**DATES:** The correction is effective March 8, 2010, and is applicable to February 3, 2010, the date the original rule became effective.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking and Directives Branch, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–492–3663, e-mail [Michael.Lesar@nrc.gov](mailto:Michael.Lesar@nrc.gov).

**SUPPLEMENTARY INFORMATION:** This document adds Table 7 to the NRC's regulations at 10 CFR 50.61a(g) which was inadvertently omitted in a document published on February 3, 2010 (75 FR 5495). Therefore, the NRC finds that notice and opportunity for public comment on this corrective action is unnecessary.

#### List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 50.