review, USDA received five comments from interested parties. In general, the comments addressed issues that were the subject of a separate notice and comment informal rulemaking action concerning proposed changes to the regulatory period under the marketing order that was completed with publication of a final rule on February 5, 2010 (75 FR 5879). It is noted that the commenters also submitted similar comments in response to that rulemaking action. The comments have been addressed in that rulemaking proceeding.

In considering the order's complexity, AMS has determined that the marketing order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for California desert grapes.

The marketing order was established in 1980. Since its inception, AMS and the California desert grape industry have continuously monitored its operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of these evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The Committee meets whenever needed to discuss the marketing order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a result, numerous regulatory changes have been made over the years to address industry operation changes and to improve program administration. The marketing order itself has never been amended since its inception, but several regulatory changes have been made through informal rulemaking, as noted above, to ensure the program continues to meet the industry's needs.

Accordingly, AMS has determined that the California desert grape marketing order should be continued. The marketing order was established to help the desert grape industry work with USDA to solve marketing problems. The marketing order continues to be beneficial to producers, handlers, and consumers.

AMS will continue to work with the California desert grape industry in maintaining an effective program.

Dated: June 22, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–16136 Filed 6–27–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Doc. No. AMS–FV–11–0016; FV11–955–1 FR]

Vidalia Onions Grown in Georgia; Change in Late Payment and Interest Requirements on Past Due Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the delinquent assessment requirements in effect under the marketing order for Vidalia onions grown in Georgia (order). The order regulates the handling of Vidalia onions grown in Georgia and is administered locally by the Vidalia Onion Committee (Committee). This rule establishes a late payment charge of 10 percent on unpaid assessments that are 10 days past due and increases the interest rate applied to delinquent assessments from 1 percent to 1.5 percent per month. This action should improve handler compliance with the assessment and reporting provisions of the order and help reduce the Committee's collection expenditures.

DATES: *Effective Date:* June 29, 2011.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, 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: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Laurel May, 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: *Laurel.May@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 955, both as amended (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, 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.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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 USDA 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule changes the delinquent assessment requirements in effect under the order. This rule establishes a late payment charge of 10 percent on unpaid assessments that are 10 days past due and increases the interest rate applied to delinquent assessments from 1 percent to 1.5 percent per month. The change was recommended unanimously by the Committee at a meeting on February 17, 2011.

Section 955.42 of the order provides authority for imposition of a late charge or interest rate or both on delinquent assessments. Section 955.142 of the order's rules and regulations prescribes the requirements for delinquent assessments. Prior to this action, § 955.142 specified that each handler pay an interest charge of 1 percent per month on any unpaid assessments and accrued unpaid interest beginning the day after the assessments are due. This rule modifies § 955.142 to include a 10 percent late charge on delinquent assessments that are 10 days past due and increases the interest rate on delinquent assessments to 1.5 percent per month.

The order requires handlers to pay to the Committee a pro rata assessment on the volume of onions handled. The volume of onions handled is based on a monthly shipping report handlers are required to submit to the Committee. The monthly shipping report and its associated assessments are due in the Committee office by the fifth day of the month following the month in which the shipments were made, unless the fifth day falls on a weekend or holiday, and then the due date is the first prior business day.

At the Committee's January 20, 2011, meeting, Committee staff indicated that some handlers have been late in reporting shipments and paying the associated assessments, and that this has been an ongoing problem for the last few seasons. The handlers eventually comply with the order requirements, but late payments deprive the Committee of expected operating income and increase Committee costs.

Vidalia onions are typically shipped from late April through August of each year. This creates a compressed window in which the Committee collects the funds it uses throughout the year for its operating expenses. In addition, the Committee spends the majority of funds allocated to promotion during the shipping season. With promotional expenses accounting for more than 50 percent of the Committee's total budget, timely payment of assessments is necessary for the Committee to have funds available to cover expenditures. When several handlers are late in paying assessments, the Committee can lack the operating funds required. If sufficient operating funds are not available, the Committee has to borrow money, increasing operating costs.

Further, there are costs associated with trying to collect the delinquent assessments. Some handlers require numerous contacts from Committee staff by mail and telephone, with others requiring on-site visits from the Committee's compliance officer. Throughout a season, these collection activities expend time and resources.

In addition to the costs associated with unpaid assessments, the failure of handlers to report on time is also a problem for the Committee. The monthly shipping report serves several functions, including providing volume information on which handler assessments are based. Without complete shipping information, the Committee is unable to provide timely and accurate market information to the industry. Also, monthly reports play an important role in terms of order compliance.

In an effort to address this problem, the Committee staff has provided additional information to handlers on when reports and assessments are due and on the importance of timely submission. They have also increased the number of reminder calls made to handlers when submissions are late, and visits have been made to delinquent handler facilities to collect late reports and payments. However, these efforts have not been successful in resolving this concern.

In its discussion of this issue, the Committee agreed the current interest rate applied to unpaid assessments does not provide sufficient incentive for handlers to turn in monthly reports and their associated assessments on time. As it stands, the rate is low enough that some handlers view the interest rate as a cost of doing business, and only submit reports and assessments after numerous contacts from the Committee staff.

Committee members wanted to find a solution that encourages handlers to submit their reports and payments as required. Initially, at its January meeting, the Committee favored changing the way the interest rate was compounded and calculated as a way to address the problem. However, it was determined that such a change could exceed what USDA considered reasonable and customary under marketing order programs. At its meeting in February, the Committee reviewed different scenarios imposed by other marketing orders to address this issue. Several other marketing orders utilize late payment charges to encourage compliance, and that authority is available under the order for Vidalia onions. As such, the Committee decided to impose a late payment charge, as well as increase the monthly interest rate.

Committee members agreed that establishing a 10 percent late charge on late assessments helps provide some additional incentive for handlers to submit their reports and assessments on time. The Committee also discussed an appropriate grace period to set before the late penalty was applied. Recognizing the importance of the timely receipt of reports and payments, the Committee did not want to set an overly long grace period. The Committee agreed that 10 days provides a sufficient buffer for those who may mistakenly miss a due date, while still supporting timely reports and payments.

As an added incentive to report and pay on time, the Committee also believes the monthly interest charge on delinquent assessments should also be increased. Consequently, the Committee unanimously recommended imposing a late payment charge of 10 percent on any assessments paid 10 days after the date the shipping report and assessments are due and increasing the interest rate applied to unpaid assessments by .5 percent to 1.5 percent per month.

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 action 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 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 50 handlers of Vidalia onions subject to regulation under the order and around 80 producers in the designated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those whose annual receipts are less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000 (13 CFR 121.201).

Based on National Agricultural Statistical Service and Committee data, the average annual grower price for fresh Vidalia onions during the 2010 season was around $20 per 40-pound container, and total Vidalia onion shipments were around 4,503,000 40-pound containers. Using available data, more than 90 percent of Vidalia onion handlers have annual receipts less than $7,000,000. However, the average receipts for Vidalia producers were around $1,118,970 in 2010, which is higher than the SBA threshold for small producers. Assuming a normal distribution, the majority of handlers of Vidalia onions may be classified as small entities, while the majority of producers may be classified as large entities, according to the SBA definition.

This action establishes a late payment charge of 10 percent on unpaid assessments that are 10 days past due and increases the interest rate applied to delinquent assessments from 1 percent to 1.5 percent per month. This change is expected to motivate handlers to submit shipping reports and assessments on time. This change also helps lower or offset the Committee's compliance expenditures associated with delinquent reports and assessments. The authority for this action is provided in § 955.42 of the order. This change amends § 955.142. The Committee unanimously recommended this action at its February 17, 2011, meeting.

This rule does not impose any additional costs on handlers that are complying with the requirements under the order. This action only represents additional costs for handlers who are delinquent in submitting their reports and assessments. A 10 day grace period is also provided before the late penalty is applied, giving delinquent handlers additional time to avoid the costs associated with the late payment charge. In addition, the late charge and interest rate were considered reasonable by industry members who participated in the discussion of this issue. Since the late payment charge and interest rate are percentages of amounts due, the costs, when applicable, are proportionate and will not place an extra burden on small entities as compared to large entities. In addition, the industry overall benefits if handler reports and assessments are collected on time and the Committee's compliance costs are reduced, regardless of entity size.

The Committee discussed alternatives to this change, including not making a change to the delinquent assessment requirements. However, a number of members commented that if some handlers are not paying on time, a change was necessary. The Committee also considered increasing the interest rate accrual to daily rather than monthly, but this option could result in an interest charge that was disproportionately large and considered to be beyond the scope of what is reasonable and customary under marketing order programs. Thus, these alternatives were rejected.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Vidalia onion 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. As noted in the Initial Regulatory Flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 17, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on May 13, 2011 (76 FR 27919). Copies of the rule were mailed or sent via facsimile to all Committee members and Vidalia onion handlers. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending May 31, 2011, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping Vidalia onions from the 2011 crop and the Committee wants to implement these changes as soon as possible. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

■ 1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 955.142 is amended by designating the first paragraph as paragraph (a) and the second paragraph as paragraph (b), and revising newly designated paragraph (b) to read as follows:

§ 955.142 Delinquent assessments.

* * * * *

(b) Each handler shall pay interest of 1.5 percent per month on any assessments levied pursuant to § 955.42 and on any accrued unpaid interest beginning the day immediately after the date the monthly assessments were due, until the delinquent handler's assessments, plus applicable interest, have been paid in full. In addition to the interest charge, the Committee shall impose a late payment charge on any handler whose assessment payment has not been received within 10 days of the due date. The late payment charge shall be 10 percent of the late assessments.

Dated: June 22, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–16139 Filed 6–27–11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. –2010–0009]

RIN 1557–AD33

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1402]

RIN 7100–AD62

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AD58

Risk-Based Capital Standards: Advanced Capital Adequacy Framework—Basel II; Establishment of a Risk-Based Capital Floor

AGENCY: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC), Board of