

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV03-959-1 PR]

Onions Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Onion Committee (Committee) for the 2002-03 and subsequent fiscal periods from \$0.05 to \$0.085 per 50-pound equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by January 27, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090-6456; Fax: (202) 720-8938, or E-mail: moab.docketclerk@usda.gov. 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA,

1313 E. Hackberry, McAllen, Texas 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 2002, and continue 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 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. Such 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 rule would increase the assessment rate established for the Committee for the 2002-03 and subsequent fiscal periods from \$0.05 to \$0.085 per 50-pound equivalent of onions.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA, 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 South Texas onions. 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, where all persons directly affected have an opportunity to participate and provide input.

For the 2001-02 and subsequent fiscal periods, the Committee recommended and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period, unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 11, 2002, and unanimously recommended 2002-03 expenses of \$127,002 for personnel, office, compliance, and partial promotion expenses. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee subsequently met on October 8, 2002, and recommended 2002-03 expenditures of \$463,297 and an assessment rate of \$0.085 per 50-pound equivalent of onions. Ten of the 13-committee members present voted in support of the \$0.035 per 50-pound equivalent increase and three voted against it. The three committee members voting against the recommendation were

producer handlers who basically did not approve of the research and promotion budgets. In comparison, last year's budgeted expenditures were \$449,190. The assessment rate of \$0.085 is \$0.035 higher than the rate currently in effect. The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions. Without the increase, the Committee's reserve fund would drop to \$16,053. The Committee believes a reserve that low is not adequate for its operations.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include \$72,002 for administrative expenses, \$35,000 for compliance, \$260,500 for promotion, and \$95,795 for research projects. Budgeted expenses for these items in 2001–02 were \$75,190, \$30,000, \$254,000, and \$90,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the fiscal period are estimated at 5.5 million 50-pound equivalents, which should provide \$467,500 in assessment income. Income derived from handler assessments would be adequate to cover budgeted expenses. Funds in the reserve (currently \$204,350) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, \$ 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2002–03 budget and those for subsequent fiscal periods would be reviewed, and as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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. Accordingly, AMS has prepared this initial 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 90 producers of onions in the production area and approximately 35 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2001–02 fiscal period, the industry's 35 handlers shipped onions produced on 16,148 acres with the average and median volume handled being 152,446 and 136,810 fifty-pound bag equivalents, respectively. In terms of production value, total revenues for the 35 handlers were estimated to be \$39.9 million, with average and median revenues being \$1.1 million and \$1.0 million, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all of the 35 handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large

number of these handlers above the \$5,000,000 annual receipt threshold. All of the 90 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed \$750,000.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent fiscal periods from \$0.05 to \$0.085 per 50-pound equivalent of onions. The Committee recommended 2002–03 expenditures of \$463,297 and an assessment rate of \$0.085 per 50-pound equivalent. The proposed assessment rate of \$0.085 is \$0.035 higher than the current rate. The quantity of assessable onions for the 2002–03 fiscal period is estimated at 5.5 million 50-pound equivalents. Thus, the \$0.085 rate should provide \$467,500 in assessment income. Income derived from handler assessments would be more than adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2002–03 fiscal period include \$72,002 for administrative expenses, \$35,000 for compliance, \$260,500 for promotion, and \$95,795 for research projects. Budgeted expenses for these items in 2001–02 were \$75,190, \$30,000, \$254,000, and \$90,000, respectively.

The Committee recommended the increased rate to fund a major market development program to promote the consumption of South Texas onions without having to draw a large amount from reserves. Without the increase, the Committee's reserve fund would drop to \$16,053. The Committee believes a reserve that low is not adequate for its operations.

The Committee reviewed and recommended 2002–03 expenditures of \$463,297, which included increases in research and promotion programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Executive Committee and the Research and Market Development Subcommittees. Numerous alternative expenditure levels were discussed by these groups based upon the relative value of various research and promotion projects to the onion industry. The assessment rate of \$0.085 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at 5.5 million 50-pound equivalents for the 2002–03

fiscal period. This is approximately \$4,203 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 2002–03 fiscal period could range between \$8.60 and \$9.25 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2002–03 fiscal periods as a percentage of total grower revenue could be about 1 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas 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 October 8, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas 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.

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

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2002–03 fiscal period began on August 1, 2002, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal

period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2002, an assessment rate of \$0.085 per 50-pound equivalent is established for South Texas onions.

Dated: December 19, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–32505 Filed 12–24–02; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 110

[Notice 2002–28]

Leadership PACs

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comment on proposed rules to address leadership PACs, which are unauthorized committees that are associated with a Federal candidate or officeholder. Please note that the draft rules that follow do not represent a final decision by the Commission on the issues presented by this rulemaking. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

DATES: Comments must be received on or before January 31, 2003. If there are sufficient requests to testify, the Commission may hold a hearing on these proposed rules on February 26, 2003, at 9:30 a.m. Commenters wishing

to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Mr. J. Duane Pugh, Jr., Acting Special Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to LeadershipPAC@fec.gov and must include the full name, electronic mail address, and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address, and the postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E. St. NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, Mr. J. Duane Pugh, Jr., Acting Special Assistant General Counsel, or Mr. Anthony T. Buckley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Bipartisan Campaign Reform Act of 2002, Pub. L. 107–155, 116 Stat. 81 (March 27, 2002) (“BCRA”), contains extensive and detailed amendments to the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* This Notice of Proposed Rulemaking (NPRM) arises primarily from 2 U.S.C. 441i(e)(1), which prohibits Federal candidates and holders of Federal office, their agents, or any entity directly or indirectly established, financed, maintained, controlled by, or acting on behalf of, the candidate or officeholder, from soliciting, receiving, directing, transferring or spending funds that are not subject to the limitations, prohibitions, and reporting requirements of the Act in connection with Federal or non-Federal elections. In determining whether an entity is directly or indirectly established, financed, maintained, or controlled by a candidate or Federal officeholder, the