

participate in Committee deliberations on all issues. Like all Committee meetings, the May 24, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on the budget and assessment rate issues.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot 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. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this 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.

A proposed rule regarding this action was published in the **Federal Register** on July 13, 2007 (72 FR 38496). Copies of the proposed rule were made available to industry members by the Committee, and by the USDA and the Office of the Federal Register through the Internet. A 10-day comment period ending July 23, 2007, was provided for 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/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.

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 2007–2008 fiscal period began on April 1, 2007, and the order requires that the assessment rate for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Washington apricot harvest and shipping season is currently under way; (3) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a

continuous basis; (4) 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; and (5) a 10-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 922.235 is revised to read as follows:

##### § 922.235 Assessment rate.

On or after April 1, 2007, an assessment rate of \$1.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 22, 2007.

**Lloyd C. Day,**  
*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–16971 Filed 8–27–07; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

#### 7 CFR Part 959

[Docket No. AMS–FV–06–0214; FV07–959–1 FIR]

#### Onions Grown in South Texas; Change in Regulatory Period

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule revising the regulatory period for minimum grade, size, quality, and maturity requirements applicable to onions grown in South Texas under Marketing Order No. 959 (order). Prior to implementation of the interim final rule, the regulatory period for South Texas onions was March 1 through June 4 of each year. Changes in available varieties, growing seasons, and marketing opportunities over the years

have resulted in a prolonged onion shipping season that now extends beyond June 4 into mid-July. This rule continues in effect the action that extended the regulatory period through July 15. The South Texas Onion Committee (Committee), which locally administers the order, unanimously recommended the change.

**EFFECTIVE DATE:** September 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, Texas Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (956) 682–2833, Fax: (956) 682–5942, or E-mail: [Belinda.Garza@usda.gov](mailto:Belinda.Garza@usda.gov).

Small businesses may request information on complying with this regulation by contacting Jay Guerber, 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: [Jay.Guerber@usda.gov](mailto: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.”

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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. 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 action, which was unanimously recommended by the Committee, continues in effect the action that extended the regulatory period when minimum grade, size, quality, and maturity requirements apply to onions grown under the order in South Texas.

Under the terms of the order, fresh market shipments of onions grown in a 35-county production area in South Texas were, prior to implementation of the interim final rule, subject to handling regulations during the period March 1 through June 4 of each year. According to the Committee, changes in available varieties, growing seasons, and marketing opportunities over the years have resulted in a prolonged onion shipping season that extended beyond June 4 into mid-July. Because the previous regulatory period did not cover the production season completely, not all onion shipments occurring after June 4 were subject to order requirements.

According to USDA Market News data, 40 percent of South Texas onions shipped in 2005 from District 2, or roughly 11 percent of total shipments for the production area, occurred after June 4. In 2006, 30 percent of onions shipped from District 2, or approximately 10 percent of total shipments for the production area, were shipped after June 4.

Section 959.110 of the order's rules and regulations apportions the 35 counties between two onion-growing areas known as District 1, designated as the Coastal Bend-Lower Valley area, and District 2, designated as the Laredo-Winter Garden area. District 1 is comprised of the counties of Victoria, Calhoun, Goliad, Refugio, Bee, Live Oak, San Patricio, Aransas, Jim Wells, Nueces, Kleberg, Brooks, Kenedy, Duval, McMullen, Cameron, Hidalgo, Starr, and Willacy. District 2 includes the counties of Zapata, Webb, Jim Hogg, De Witt, Wilson, Atascosa, Karnes, Val Verde, Frio, Kinney, Uvalde, Medina, Maverick, Zavala, Dimmit, and LaSalle.

Section 959.52(b) of the order provides authority to limit the handling of any grade, size, quality, maturity, or pack of onions within the production area during any period. Section 959.322 outlines the regulatory requirements authorized under § 959.52(b). Such grade requirements are based on the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR part 51.3195–3212), or the U.S. Standards for Grades of Onions (Other than Bermuda-Granex-Grano and Creole Types) (7 CFR part 51.2830–2854).

Currently, these handling regulations provide that shipments may not exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance is permitted in individual packages in percentage grade lots. Applications of tolerances in U.S. onion standards apply to in-grade lots.

Minimum size requirements for different size designations are outlined in the regulations. Specifically, for white onions only, the minimum diameter is 1 inch to 2¼ inches maximum diameter. For other than white onions, the minimum diameter for repacker onions is 1¾ inches to 3 inches maximum with 60 percent or more 2 inches in diameter or larger, 2 to 3½ inches for medium, 3 inches or larger for jumbo or large onions, and 3¾ inches or larger for colossal.

The regulations further specify that tolerances for size in the U.S. onion standards shall apply except that for repacker and medium sizes, not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified.

The previous South Texas regulatory period during which the aforementioned regulations were in effect ran from March 1 through June 4, annually. A final rule published on May 17, 1996 (61 FR 24877), established that regulatory period to promote the orderly marketing of onions.

Extending the end date of the regulatory period from June 4 to July 15 each year provides the consumer with quality onions for a longer period of time because the entire production area will be regulated throughout its shipping period. Normally, South Texas onion handlers continued to voluntarily request inspection of their onions after June 4 to ensure product quality past the previous regulatory period. Because the industry was already voluntarily having their onions inspected, the extension is not expected to negatively impact the industry and this change aligns order requirements with actual industry operations.

Collecting assessments for an additional five weeks provides the Committee with additional assessment revenue. Based on USDA Market News shipment 2005 data, an additional 1,086,600 fifty-pound equivalent cartons would have been assessed if the extended regulatory period had been in effect. At the current assessment rate of \$0.02 per carton, this amount would have generated an additional \$21,732 in assessment revenue. Similarly, Market News data for 2006 indicates that an

additional 863,400 cartons would have been assessed between June 4 and July 15, and would have resulted in \$17,268 of additional assessment revenue.

The additional revenue collected as a result of an extended regulatory period in 2007 allows the Committee to further promote onions and conduct more research projects, making it advantageous to the industry as well as the consumer. All producers will realize a better return for a quality pack through research and market development projects funded by the collection of assessments through July 15.

#### Final 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 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 so 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. Small agricultural growers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those with annual receipts of less than \$6,500,000.

There are approximately 114 producers of onions in the production area and approximately 38 handlers subject to regulation under the order.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2005–06 marketing year, the industry's 38 handlers shipped onions produced on 17,694 acres with the average and median volume handled being 182,148 and 174,437 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 38 handlers were estimated to be \$44.2 million, with average and median revenues being \$1.6 million and \$1.12 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 38 handlers regulated by the order would be considered small entities if only their onion revenues are considered. However, revenues from other productive enterprises would likely push a number of these handlers above the \$6,500,000 annual receipt threshold. All of the 114 producers may be classified as small entities based on the SBA definition if only their revenue from onions is considered.

This rule continues in effect the action that extended the end date of the order's regulatory period from June 4 to July 15 of each year for Texas onions shipped to the fresh market. This action, which was unanimously recommended by the Committee, continues in effect the action that extended the regulatory period when minimum grade, size, quality, and maturity requirements apply to onions grown under the order. Authorization to implement such regulations is provided in § 959.52(b) of the order. Regulatory requirements authorized under this section are provided in § 959.322.

This action provides that fresh onion shipments from the entire South Texas onion production area will meet all order requirements from March 1 through July 15 of each year. Prior to implementation of the interim final rule, the regulations required that onions grown in the production area meet order requirements from March 1 through June 4 of each year.

According to the Committee, changes in available varieties, growing seasons, and marketing opportunities over the years have resulted in a prolonged onion shipping season that extended beyond June 4 into mid-July. Because the previous regulatory period did not cover the production season completely, not all onion shipments occurring after June 4 were subject to mandatory inspection under the order. Extending the regulatory period ensures that all South Texas onions will be inspected to order specifications.

Prior to implementation of the interim final rule, many South Texas onion handlers voluntarily requested inspection of their onions after June 4 to ensure product quality. Because the industry was already voluntarily having their onions inspected, the extension is not expected to negatively impact the industry and this change aligns order

requirements with present day industry operations.

According to USDA Market News data, 40 percent of South Texas onions shipped in 2005 from District 2, or roughly 11 percent of total shipments for the production area, occurred after June 4. In 2006, 30 percent of onions shipped from District 2, or approximately 10 percent of total shipments for the production area, were shipped after June 4.

This action is also expected to support Committee promotional and research activities and benefit consumers. The Committee has indicated that collecting assessments for an additional five weeks will provide them with additional assessment revenue.

Based on USDA Market News shipment 2005 data, an additional 1,086,600 fifty-pound equivalent cartons would have been assessed if the extended regulatory period had then been in effect. At the current assessment rate of \$0.02 per carton, this amount would have generated an additional \$21,732 in assessment revenue. Similarly, Market News data for 2006 indicates that an additional 863,400 cartons would have been assessed between June 4 and July 15, 2006, and would have resulted in \$17,268 of additional assessment revenue.

The additional revenue allows the Committee to further promote onions and conduct more research projects, making it advantageous to the industry as well as the consumer. All producers will realize a better return for a quality pack through research and market development projects funded by the collection of assessments through July 15.

The additional five weeks of assessment collection is not expected to significantly burden South Texas onion handlers. A burden calculation of the additional assessments that would have been collected in 2006 if the regulatory period had been in effect for that season indicates that the additional assessment payments by handlers would have equaled 0.039 percent of the total of 2006 production value  $[(\$17,268/\$44.2 \text{ million}) \times 100 = 0.039]$ . Total 2006 revenues for the 38 handlers were estimated to be \$44.2 million, with average and median revenues being \$1.6 million and \$1.12 million, respectively.

Extending the end date of the regulatory period from June 4 to July 15 each year will also provide the consumer with quality onions for a longer period of time because the entire production area will be regulated throughout its shipping period.

One alternative to this action would have been to not extend the regulatory period beyond the prior end date of June 4. However, the Committee believed that not extending the regulatory period would have resulted in a significant portion of the South Texas onion crop not being consistently regulated.

While most handlers were extending inspection beyond the June 4 regulatory deadline on a voluntary basis, such inspection was not required. By extending the regulatory period, such inspection became mandatory. Mandatory inspection ensures orderly marketing of all South Texas onions since all handlers and product will be required to fulfill the same inspection requirements and product standards under the order for the entire production period. Therefore, USDA determined that the end date of the regulatory period for South Texas onions should be extended from June 4 to July 15.

While this action will impose some additional costs on South Texas onion handlers and producers, the costs are expected to be minimal, and will be offset by the benefits of the action. The Committee believes that this modification benefits consumers, producers, and handlers. The benefits of this action are not expected to be disproportionately greater or lesser for small entities than for large entities.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large 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. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The 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.

Further, 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. All Committee meetings were public meetings and all entities, both large and small, were able to express their views. Furthermore, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on May 7, 2007. Copies of the rule were mailed by the Committee's staff to all Committee members, onion handlers, and interested persons. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended July 6, 2007. 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/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.

This rule continues in effect the action that extended the regulatory period under the South Texas onion marketing order.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (72 FR 25677, May 7, 2007) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 959

Onions, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 72 FR 25677 on May 7, 2007, is adopted as a final rule without change.

Dated: August 21, 2007.

**Lloyd C. Day,**

Administrator, Agricultural Marketing Service.

[FR Doc. 07-4162 Filed 8-27-07; 8:45 am]

BILLING CODE 3410-02-M

#### NUCLEAR REGULATORY COMMISSION

##### 10 CFR Parts 1, 2, 13 and 110

RIN 3150—AH74

#### Use of Electronic Submissions in Agency Hearings

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to require the use of electronic submissions in all agency hearings, consistent with the existing practice for the high-level radioactive waste repository application (which is covered under a separate set of regulations). The amendments require the electronic transmission of electronic documents in submissions made to the NRC's adjudicatory boards. Although exceptions to these requirements are established to allow paper filings in limited circumstances, the NRC maintains a strong preference for fully electronic filing and service. The rule builds upon prior NRC rules and developments in the Federal courts regarding the use of electronic submissions.

**DATES:** *Effective date:* This final rule will become effective October 15, 2007.

*Applicability date:* This final rule will apply only to new proceedings noticed on or after that date. For any proceeding noticed before that effective date, filings may be submitted via the E-Filing system, but only after this rule's effective date and upon agreement of all participants and the presiding officer.

**ADDRESSES:** This final rule and any related documents are available on the NRC's interactive rulemaking Web site at <http://ruleforum.nrl.gov>. For information about the interactive rulemaking site, contact Carol Gallagher, telephone (301) 415-5905, e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov). Publicly available NRC documents related to this final rule can also be viewed on public computers located at the NRC's Public Document Room (PDR), located at O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will make copies of documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room currently located at <http://www.nrc.gov/reading-rm/adams.html>.

From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1(800) 397-4209, (301) 415-4737, or by e-mail at [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Darani Reddick, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555—

0001, telephone (301) 415-3841, e-mail [dmr1@nrc.gov](mailto:dmr1@nrc.gov), or Steven Hamrick, Office of the General Counsel, telephone (301) 415-4106, e-mail [sch1@nrc.gov](mailto:sch1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Overview of the Final Rule
- III. Comments on the Proposed Rule
- IV. Section-by-Section Analysis of Substantive Changes
- V. Voluntary Consensus Standards
- VI. Environmental Impact: Categorical Exclusion
- VII. Paperwork Reduction Act Statement
- VIII. Regulatory Analysis
- IX. Regulatory Flexibility Certification
- X. Backfit Analysis
- XI. Congressional Review Act

#### I. Background

On December 16, 2005 (70 FR 74950), the NRC published a proposed rule, E-Filing, to require that submissions in any adjudicatory hearing governed by 10 CFR part 2, Subpart C, part 13, or part 110 be made electronically. NRC's Electronic Information Exchange (EIE), a component of the E-Filing system, permits users to make electronic submissions to the agency in a secure manner using digital signature technology to authenticate documents and validate the identity of the person submitting the information. Upon receipt of a transmission, the E-Filing system time-stamps documents transmitted to the NRC and sends the submitter an e-mail notice confirming receipt of the documents.

In crafting the rule, the NRC relied upon its past experience with electronic submissions and also examined Federal court practices. These experiences are derived from the "Electronic Maintenance and Submission of Information" final rule ("E-Rule"), issued October 10, 2003 (68 FR 58792), and the 10 CFR part 2, Subpart J procedures for electronic filing in high-level waste proceedings. The NRC also looked to the use of electronic filing by Federal courts. E-Filing adopts some technical and procedural provisions nearly verbatim from the E-Rule, 10 CFR part 2, Subpart J, and the procedures adopted by the Federal courts.

The E-Filing rule is accompanied by *Guidance for Electronic Submissions to the NRC* (Guidance), a guidance document that is currently available at <http://www.nrc.gov/site-help/e-submittals.html>. This guidance document consolidates previous guidance set forth for electronic submittal of information to the agency, and sets forth the technical standards for electronic transmission and for formatting electronic documents as well as instructions on how to obtain and use