received will be considered prior to finalization.

List of Subjects in 7 CFR Part 905

Grapefruit, Oranges, Tangelos, Tangerines, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 905.149:

■ a. Paragraph (d) is amended by revising ''July 31, 2003.'' to read ''July 31, 2004.''.

■ b. Paragraph (f)(2) is amended by revising ''1,500'' to read ''3,000''.

■ c. Paragraph (f)(3) is amended by revising ''for the 2002–03 season only'' to read ''during the 2003–04 season only'' and ''July 31, 2003.'' to read ''July 31, 2004.''.

■ d. A new paragraph (f)(6) is added to read as follows:

§ 905.149 Procedure for permitting growers to ship tree run citrus fruit.

* * * * *

(f) * * *

(6) Each container of tree run fruit shipped under a Grower Tree Run Certificate shall be labeled with or contain the name and address of the grower shipping under the Grower Tree Run Certificate.

Dated: August 28, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–22414 Filed 9–2–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 922, 923, and 924

[Docket No. FV03–922–1 FR]

Increased Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rates established for the Washington Apricot Marketing Committee, the Washington Cherry Marketing Committee, and the Washington-Oregon Fresh Prune Committee (Committees) for the 2003–2004 and subsequent fiscal periods. This rule increases the assessment rates established for the Committees from $2.50 to $3.00 per ton for Washington apricots, from $0.75 to $1.00 per ton for Washington sweet cherries, and $1.00 to $1.50 per ton for Washington-Oregon fresh prunes. The Committees are responsible for local administration of the marketing orders which regulate the handling of apricots and cherries grown in designated counties in Washington, and prunes grown in designated counties in Washington and in Umatilla County, Oregon. Authorization to assess apricot, cherry, and prune handlers enables the Committees to incur expenses that are reasonable and necessary to administer the programs. The fiscal period for these marketing orders begins April 1 and ends March 31. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, 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.

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, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington; Marketing Agreement and Order No. 923 (7 CFR part 923) regulating the handling of sweet cherries grown in designated counties in Washington; and Marketing Agreement and Order No. 924 (7 CFR part 924) regulating the handling of fresh prunes grown in designated counties in Washington and Umatilla County, Oregon, hereinafter referred to as the ''orders.'' The orders 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 (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 orders now in effect, handlers in the designated areas are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates fixed herein will be applicable to all assessable Washington apricots, Washington sweet cherries, and Washington-Oregon fresh prunes beginning April 1, 2003, 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 increases the assessment rates established for the Committees for the 2003–2004 and subsequent fiscal periods from $2.50 to $3.00 per ton for Washington apricots, from $0.75 to $1.00 per ton for Washington sweet cherries, and $1.00 to $1.50 per ton for Washington-Oregon fresh prunes.

The orders provide authority for the Committees, 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 Committees are producers and handlers in designated counties in Washington and in Umatilla County, Oregon. They are familiar with the Committees' needs and with the costs for goods and services in their

local areas and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2002–2003 and subsequent fiscal periods, the Washington Apricot Marketing 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 Washington Apricot Marketing Committee met on May 21, 2003, and unanimously recommended 2003–2004 expenditures of $10,559 and an assessment rate of $3.00 per ton of apricots. In comparison, last year's budgeted expenditures were $11,685. The assessment rate of $3.00 is $0.50 higher than the rate currently in effect. The increase is necessary to offset an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2003 apricot crop.

The assessment rate recommended by the Washington Apricot Marketing Committee was derived by dividing anticipated expenses by expected shipments of apricots grown in designated counties in Washington. Applying the $3.00 per ton rate of assessment to the Washington Apricot Marketing Committee's 3,600-ton shipment estimate should provide $10,800 in assessment income. Income derived from handler assessments should be adequate to cover budgeted expenses and allow the Washington Apricot Marketing Committee to maintain an acceptable financial reserve. Funds in the reserve ($8,360 as of March 31, 2003), will be kept within the maximum permitted by the order (approximately one fiscal period's operational expenses; § 922.42).

For the 1997–98 and subsequent fiscal periods, the Washington Cherry Marketing 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 Washington Cherry Marketing Committee met on May 22, 2003, and unanimously recommended 2003–2004 expenditures of $71,865 and an assessment rate of $1.00 per ton of cherries. In comparison, last year's budgeted expenditures were $68,715. The assessment rate of $1.00 is $0.25 higher than the rate currently in effect. The higher assessment rate is necessary to offset an anticipated decrease in production due to the adverse effect of cooler temperatures on the size and quality of the 2003 cherry crop.

The assessment rate recommended by the Washington Cherry Marketing Committee was derived by dividing anticipated expenses by expected shipments of sweet cherries grown in designated counties in Washington. Applying the $1.00 per ton rate of assessment to the Washington Cherry Marketing Committee's 64,000-ton shipment estimate should provide $64,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve ($33,064 as of March 31, 2003), will be kept within the maximum permitted by the order (approximately one fiscal period's operational expenses; § 923.42).

For the 2001–2002 and subsequent fiscal periods, the Washington-Oregon Fresh Prune Marketing 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 Washington-Oregon Fresh Prune Marketing Committee met on June 3, 2003, and unanimously recommended 2003–2004 expenditures of $7,411 and an assessment rate of $1.50 per ton of prunes. In comparison, last year's budgeted expenditures were $8,095. The assessment rate of $1.50 is $0.50 higher than the rate currently in effect. The higher assessment rate is necessary to bring the assessment rate closer to budgeted expenses, and to use less of the reserve to fund expenses.

The assessment rate recommended by the Washington-Oregon Fresh Prune Committee was derived by dividing anticipated expenses by expected shipments of fresh prunes grown in designated counties in Washington, and Umatilla County, Oregon. Applying the $1.50 per ton rate of assessment to the Washington-Oregon Fresh Prune Marketing Committee's 4,300-ton shipment estimate should provide $6,450 in assessment income. Income derived from handler assessments, along with funds from the Washington-Oregon Fresh Prune Marketing Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve ($5,407 as of March 31, 2003), will be kept within the maximum permitted by the order (approximately one fiscal period's operational expenses; § 924.42).

All three Committees are managed from the same office, and as such, major expenses recommended by the Committees for the 2003–2004 year include manager and clerical salaries ($54,500), rent and maintenance ($7,200), compliance officer ($4,840), and Committee travel and compensation ($4,000). Budgeted expenses for these items in 2002–2003 were $49,100, $6,800, $5,120, and $6,100, respectively.

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

Although the assessment rates will be in effect for an indefinite period, the Committees 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 rates. The dates and times of the Committees' meetings are available from the Committees or USDA. The Committees' meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committees' recommendations and other available information to determine whether modification of the assessment rates is needed. Further rulemaking will be undertaken as necessary. The Committees' 2003–2004 budgets and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 272 Washington apricot producers, 1,800 Washington sweet cherry producers,

and 215 Washington-Oregon fresh prune producers in the respective production areas. In addition, there are approximately 28 Washington apricot handlers, 69 Washington sweet cherry handlers, and 10 Washington-Oregon fresh prune handlers subject to regulation under the respective marketing orders. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on a three-year average fresh apricot production of 4,225 tons (Washington Apricot Marketing Committee records), a three-year average producer price of $893 per ton as reported by National Agricultural Statistics Service (NASS), and 272 Washington apricot producers, the average annual producer revenue is approximately $13,871. In addition, based on Washington Apricot Marketing Committee records and 2002 f.o.b. prices ranging from $12.50 to $16.50 per 24-pound container as reported by USDA's Market News Service (MNS), all of the Washington apricot handlers ship under $5,000,000 worth of apricots.

Based on a three-year average fresh cherry production of 71,220 tons (Washington Cherry Marketing Committee records), a three-year average producer price of $1,857 per ton as reported by NASS, and 1,800 Washington cherry producers, the average annual producer revenue is approximately $73,475. In addition, based on Washington Cherry Marketing Committee records and an average 2002 f.o.b. price of $28.00 per 20-pound container as reported by MNS, 81 percent of the Washington cherry handlers ship under $5,000,000 worth of cherries.

Based on a three-year average fresh prune production of 4,893 tons (Washington-Oregon Fresh Prune Marketing Committee records), a three-year average producer price of $210 per ton as reported by NASS, and 215 Washington-Oregon prune producers, the average annual producer revenue is approximately $4,779. In addition, based on Washington-Oregon Fresh Prune Marketing Committee records and 2002 f.o.b. prices ranging from $8.50 to $9.50 per 30-pound container as reported by MNS, all of the Washington-Oregon prune handlers ship under $5,000,000 worth of prunes.

In view of the foregoing, the majority of Washington apricot, Washington sweet cherry, and Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule increases the assessment rates established for the Committees from $2.50 to $3.00 per ton for apricots, from $0.75 to $1.00 per ton for cherries, and from $1.00 to $1.50 per ton for prunes. For the 2003–2004 fiscal period, the quantity of assessable fruit is estimated at 3,600 tons for apricots, 64,000 tons for cherries, and 4,300 tons for prunes.

All three Committees are managed from the same office, and as such, major expenses recommended by the Committees for the 2003–2004 year include manager and clerical salaries ($54,500), rent and maintenance ($7,200), compliance officer ($4,840), and Committee travel and compensation ($4,000). Budgeted expenses for these items in 2002–2003 were $49,100, $6,800, $5,120, and $6,100, respectively.

The higher assessment rates are necessary to offset increases in salaries and rent and maintenance, and projected decreases in the production of each crop due to the adverse effect of cooler temperatures on the size and quality of the fruit. The additional assessment income will also permit the Washington Apricot Marketing Committee and the Washington-Oregon Fresh Prune Committee to meet budgeted expenses and maintain an acceptable financial reserve. For the Washington Cherry Marketing Committee, the increased assessment rate will allow it to use less reserve funds to meet its budgeted expenses.

The Committees discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the programs with adequate reserves.

Apricot shipments for 2003 are estimated at 3,600 tons, which should provide $10,800 in assessment income. Income derived from handler assessments should be adequate to cover budgeted expenses. Funds in the reserve ($8,360 as of March 1, 2003) will be kept within the maximum permitted by the order (approximately one fiscal period's operational expenses; § 923.42).

Sweet cherry shipments for 2003 are estimated at 64,000 tons, which should provide $64,000 in assessment income. Income derived from handler assessments, along with funds from the authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve ($33,064 as of March 31, 2003) will be kept within the maximum permitted by the order (one fiscal period's operational expenses; § 923.42).

Fresh prune shipments for 2003 are estimated at 4,300 tons, which should provide $6,450 in assessment income. Income derived from handler assessments, along with funds from the authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve ($5,407 as of March 31, 2003) will be kept within the maximum permitted by the order (approximately one fiscal period's operational expenses; § 924.42).

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2003–2004 season could range between $783 and $1,050 per ton for Washington apricots, between $1,580 and $2,000 per ton for Washington sweet cherries, and between $166 and $252 per ton for Washington-Oregon fresh prunes. Therefore, the estimated assessment revenue for the 2003–2004 fiscal period as a percentage of total producer revenue could range between 0.29 and 0.38 percent for Washington apricots, between 0.05 and 0.06 percent for Washington sweet cherries, and between 0.60 and 0.90 for Washington-Oregon fresh prunes.

This action increases 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 orders. In addition, the Committees' meetings were widely publicized throughout the Washington apricot, Washington sweet cherry, and Washington-Oregon fresh prune industries and all interested persons were invited to attend and participate in the Committees' deliberations on all issues. Like all meetings of these Committees, the May 21, May 22, and June 3, 2003, meetings were public meetings and all entities, both large and small, were able to express views on the issues.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot, Washington sweet cherry, or Washington-Oregon fresh prune 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 proposed rule concerning this action was published in the **Federal Register** on July 25, 2003 (68 FR 43975). Copies of the proposed rule were also mailed or sent via facsimile to all members of the Committees. Finally, the proposal was made available through the Internet by the Office of the Federal Register and USDA. A 15-day comment period ending August 11, 2003, 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.ama.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 Committees 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 the 2003–2004 fiscal period began on April 1, and the marketing orders require that the rate of assessment for each fiscal period apply to all assessable Washington apricots, Washington sweet cherries, and Washington-Oregon fresh prunes handled during such fiscal period. Further, handlers are aware of this rule which was unanimously recommended by each of the Committees at public meetings. Also, a 15-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects

7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 924

Plums, Prunes, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 922, 923, and 924 are amended as follows:

■ 1. The authority citation for 7 CFR parts 922, 923, and 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

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

§ 922.235 Assessment rate.

On or after April 1, 2003, an assessment rate of $3.00 per ton is established for the Washington Apricot Marketing Committee.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 3. Section 923.236 is revised to read as follows:

§ 923.236 Assessment rate.

On or after April 1, 2003, an assessment rate of $1.00 per ton is established for the Washington Cherry Marketing Committee.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

■ 4. Section 924.236 is revised to read as follows:

§ 924.236 Assessment rate.

On or after April 1, 2003, an assessment rate of $1.50 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: August 28, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–22415 Filed 9–2–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV03–948–2 FR]

Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule reinstates the continuing assessment rate established for the Area No. 3 Colorado Potato Administrative Committee (Committee) for the 2003–2004 and subsequent fiscal periods at $0.03 per hundredweight of potatoes handled. The Committee locally administers the marketing order regulating the handling of potatoes grown in northern Colorado. The continuing assessment rate was suspended for the 2001–2002 and subsequent fiscal periods to bring the monetary reserve within the program limit of two fiscal periods' operating expenses. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, 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.

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.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of potatoes grown in Colorado, 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, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the