



This document is scheduled to be published in the Federal Register on 01/21/2016 and available online at <http://federalregister.gov/a/2016-01137>, and on FDsys.gov

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS-FV-15-0033; FV15-922-1 FIR]

**Apricots Grown in Designated Counties in Washington;
Decreased Assessment Rate**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the Washington Apricot Marketing Committee (Committee) to decrease the assessment rate from \$1.50 to \$0.75 per ton of Washington apricots handled for the 2015-2016 and subsequent fiscal periods. The Committee locally administers the marketing order and is comprised of apricot producers and handlers operating within designated counties in Washington. The interim rule was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson,
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Small businesses may obtain information on complying
with this and other marketing order regulations by viewing
a guide at the following website:

<http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>;
or by contacting Antoinette Carter, Marketing Order and
Agreement Division, Specialty Crops Program, AMS, USDA,
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or E-mail: Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under
Marketing Agreement No. 132 and Order No. 922, as amended
(7 CFR 922), regulating the handling of apricots grown in
designated counties in Washington, 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 Orders 12866, 13563, and 13175.

Under the order, Washington apricot handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Washington apricots for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on April 1 and ends on March 31.

In an interim rule published in the **Federal Register** on August 19, 2015, and effective on August 20, 2015, (80 FR 50189, Doc. No. AMS-FV-15-0033, FV15-922-1 IR), § 922.235 was amended by decreasing the assessment rate for the 2015-2016 and subsequent fiscal periods from \$1.50 to \$0.75 per ton. The decrease in the per ton assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural

Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 100 apricot producers in the production area and approximately 17 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts of less than \$7,000,000 (13 CFR 121.201).

The National Agricultural Statistics Service reported that, in 2014, the Washington apricot total utilization of 8,500 tons (including both fresh and processed markets) sold for an average of \$1,080 per ton. Consequently, the

total farm-gate value in 2014 was approximately \$9,180,000. Based on the number of producers in the production area (100), the 2014 average revenue from the sale of apricots is estimated at approximately \$91,800 per producer. In addition, based on information from the USDA's Market News Service, 2014 f.o.b. prices for WA No. 1 apricots ranged from \$20.00 to \$26.00 per 24-pound loose-pack container, and from \$22.00 to \$30.00 for 2-layer tray-pack containers. Using average price and shipment information provided by the Committee, it is determined that each of the Washington apricot handlers currently ship less than \$7,000,000 worth of apricots on an annual basis. In view of the foregoing, it can be concluded that the majority of Washington apricots producers and handlers may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate collected from handlers for the 2015-2016 and subsequent fiscal periods from \$1.50 to \$0.75 per ton of apricots handled. The Committee also unanimously recommended 2015-2016 fiscal period expenditures of \$7,610. With a 2015 Washington apricot crop estimate of 5,800 fresh market tons, the Committee

anticipates assessment income of approximately \$4,350. Income derived from handler assessments, along with funds from the Committee's monetary reserve, will be adequate to cover budgeted expenses for the 2015-2016 fiscal period. This action will allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 12, 2015, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of

Management and Budget (OMB) and assigned OMB No. 0581-0189. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action 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.

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

Comments on the interim rule were required to be received on or before October 19, 2015. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-15-0033-0001>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988,

13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (80 FR 50189, August 19, 2015) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 7 CFR part 922, which was published at 80 FR 50189 on August 19, 2015, is adopted as a final rule without change.

Dated: January 15, 2016

Erin Morris
Associate Administrator
Agricultural Marketing Service

BILLING CODE 3410-02 P
[FR Doc. 2016-01137 Filed: 1/20/2016 8:45 am; Publication Date: 1/21/2016]