

**§ 987.339 Assessment rate.**

On and after October 1, 2003, an assessment rate of \$0.75 per hundredweight is established for California dates.

Dated: July 23, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 991**

[Docket No. AO-F&V-991-A3; FV03-991-01]

**Hops Produced in Washington, Oregon, Idaho and California; Hearing on Proposed Marketing Agreement and Order No. 991**

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

**ACTION:** Notice of Public Hearing on Proposed Marketing Agreement and Order.

**SUMMARY:** Notice is hereby given of a public hearing to consider a proposed marketing agreement and order under the Agricultural Marketing Agreement Act of 1937 to cover hops grown in Washington, Oregon, Idaho and California. The proposal was submitted by the Hop Marketing Order Proponent Committee (committee), a group of industry members who support a marketing order for hops. The proposed order would authorize volume control measures in the form of producer allotments to regulate the marketing of alpha acid in hops in the production area. Alpha acid is a bittering agent used in brewing that is the primary marketable component of hops. The proposed order would also allow for reserve pooling of excess production of alpha acid and would provide for production research, marketing research and development projects to promote the marketing, distribution and consumption or efficient production of hops. The program would be financed by assessments on hop handlers and would be administered by a committee of growers nominated by the industry and appointed by the Department of Agriculture (USDA).

**DATES:** The hearing will be held on August 14 and 15 in The Dalles, Oregon, on August 16 and 18 in Hood River, Oregon and continue, if necessary, on August 19, 20, 21 and 22 in Hood River,

Oregon. The hearing will begin each day at 8:30 a.m. and end at 5 p.m.

**ADDRESSES:** The hearing locations are: August 14 and 15, 2003, Shilo Inn, 3223 Bret Clodfelter Way, The Dalles, Oregon 97058; August 16 and 18 (and August 19 through 22, if necessary) Best Western Hood River Inn, 1108 East Marina Way, Hood River, Oregon 97031.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Northwest Marketing Field Office, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204; telephone (503) 326-2724 or Fax (503) 326-7440; or Kathleen M. Finn, 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 this proceeding 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.

**SUPPLEMENTARY INFORMATION:** This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposal on small businesses.

The marketing agreement and order proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If issued, the proposed agreement and order would 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 the Secretary 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. 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 the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

This proposal is the result of more than two years of efforts undertaken by the committee. The committee was established as a result of renewed industry interest in a Federal marketing order. According to the committee, meetings for discussion of a hop marketing order involved all segments of the industry with varying views on establishment of an order and included growers, handlers, dealers and end users. In addition, meetings were held in each area of the production area to provide opportunities for all hop growers and other interested parties to provide input.

According to the committee, the hop industry is suffering from a chronic oversupply situation that is depressing prices to below economically viable levels. Technological advances have increased the efficiency of both the production of alpha acid from hops and the utilization of the alpha acid in brewing. Consequently, less hop acreage is needed to adequately supply the market and excess alpha inventories have resulted. Industry reductions in acreage have not kept pace with the declining demand for alpha acid. The proponent group contends that the proposed marketing order program would bring stability to the U.S. hop industry by balancing supplies with market needs, which would enhance producer returns.

There have been three previous marketing orders for hops. The most recent was for hop growers in the Northwest which was in effect from July 1966 to December 1985. The principal feature of that order was a producer allotment form of volume control. There was considerable controversy involved in the order during the 1980's, which included concerns over the grower base used in calculating the volume regulations. The base was limited to