

Agricultural Marketing Service, USDA

§ 900.700

7 CFR part where identified and described	Current OMB control No.
931, Oregon-Washington Bartlett Pears	0581-0092
932, California Olives	0581-0142
945, Idaho-Eastern Oregon Potatoes	0581-0178
946, Washington Potatoes	0581-0178
947, Oregon-California Potatoes	0581-0178
948, Colorado Potatoes	0581-0178
953, Southeastern Potatoes	0581-0178
955, Vidalia Onions	0581-0178
956, Walla Walla Onions	0581-0178
958, Idaho-Oregon Onions	0581-0178
959, South Texas Onions	0581-0178
966, Florida Tomatoes	0581-0178
979, South Texas Melons	0581-0178
981, California Almonds	0581-0071
982, Oregon-Washington Hazelnuts	0581-0178
984, California Walnuts	0581-0178
985, Spearmint Oil	0581-0065
987, California Dates	0581-0178
989, California Raisins	0581-0178
993, California Dried Prunes	0581-0178
997, Domestic Peanuts Not Covered Under the Peanut Marketing Agreement	0581-0163
998, Domestic Peanuts Covered Under the Peanut Marketing Agreement	0581-0067

[63 FR 10492, Mar. 4, 1998]

Subpart—Assessment of Exemptions

§ 900.700 Exemption from assessments.

(a) This section specifies criteria for identifying persons eligible to obtain an assessment exemption for marketing promotion, and procedures for applying for an exemption under 7 CFR parts 906, 915, 916, 917, 922, 923, 924, 925, 927, 929, 930, 931, 932, 947, 948, 955, 956, 958, 959, 966, 979, 981, 982, 984, 985, 987, 989, 993, and such other parts (included in 7 CFR parts 905 through 998) covering marketing orders for fruits, vegetables, and specialty crops as may be established or amended to include market promotion. For the purposes of this section, the term “assessment period” means fiscal period, fiscal year, crop year, or marketing year as defined under these parts; the term “marketing promotion” means marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption of the applicable commodity.

(b) Any handler who operates under an approved National Organic Program (7 CFR part 205)(NOP) process system plan, only handles or markets organic products that are eligible to be labeled

100 percent organic under the NOP, and are produced on a certified organic farm as defined in §2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502) and the NOP regulations issued under that Act, is not a split operation, and is subject to assessments under a part or parts specified in paragraph (a) of this section, shall be exempt from the portion of the assessment applicable to marketing promotion, including paid advertising. Any handler so exempted shall be obligated to pay the portion of the assessment for other authorized activities under such part or parts.

(c) To be exempt from paying assessments for these purposes under a part or parts, the handler shall submit an application to the committee or board established under the applicable part or parts prior to or during the assessment period. This application, FV-649, “Certified Organic Handler Application for Exemption from Market Promotion Assessments Paid Under Federal Marketing Orders,” shall include: The applicable committee or board and Federal marketing order number; the date; handler’s name; company name and address; telephone and fax numbers; an optional e-mail address; certification that the applicant is not a split operation, as defined by the Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6502) and the NOP; certification that the applicant only handles and markets organic products eligible to be labeled 100 percent organic under the NOP, and that the applicant is subject to assessments under the Federal marketing order program for which the exemption is requested. The applicant shall list all commodities handled or marketed. The applicant shall list the number of producers for whom they handle or market. The applicant shall attach a copy of their organic handler operation certificate and all applicable producer certificates provided by a USDA-accredited certifying agent under the OFPA and the NOP. The applicant shall certify that the handler meets all of the applicable requirements for an assessment exemption as provided in this section. The handler shall file the application with the committee or board, prior to or during the

applicable assessment period, and annually thereafter, as long as the handler continues to be eligible for the exemption. If the person complies with the requirements of this section and is eligible for an assessment exemption, the committee or board will approve the exemption and notify the applicant, in writing, within the applicable timeframe as follows: For exemption requests received on or before August 15, 2005, the committee or board will have 60 days to approve the exemption request; after August 15, 2005, the committee or board will have 30 days to approve the exemption request. If the application is disapproved, the committee or board will notify the applicant, in writing, of the reason(s) for disapproval within the same timeframes.

(d) The applicable assessment rate for any handler approved for an exemption shall be computed by dividing the committee's or board's estimated non-marketing promotion expenditures by the committee's or board's estimated total expenditures approved by the Secretary and applying that percentage to the assessment rate applicable to all persons for the assessment period. The committee's or board's estimated non-marketing promotion expenditures shall exclude the direct costs of marketing promotion and the portion of committee's or board's administrative and overhead costs (*e.g.*, salaries, supplies, printing, equipment, rent, contractual expenses, and other applicable costs) to support and administer the marketing promotion activities. If a committee or board does not plan to conduct any market promotion activities in a fiscal year, the committee or board may submit a certification to that effect to the Secretary, and as long as no assessments for such fiscal year are used for marketing promotion projects, or the administration of projects funded by a previous fiscal period's assessments, the committee or board may assess all handlers, regardless of their organic status, the full assessment rate applicable to the assessment period. For each assessment period, the Secretary shall review the portion of the assessment rate applicable to marketing promotion for persons

eligible for an exemption and, if appropriate, approve the assessment rate.

(e) When the requirements of this section for exemption no longer apply to a handler, the handler shall inform the committee or board within 30 days and pay the full assessment on all remaining assessable product for all committee or board assessments from the date the handler no longer is eligible to the end of the assessment period.

(f) Within 30 days following the applicable assessment period, the committee or board shall re-compute the applicable assessment rate for handlers exempt under this section based on the actual expenditures incurred during the applicable assessment period. The Secretary shall review, and if appropriate, approve any change in the portion of the assessment rate for market promotion applicable to exempt handlers, and authorize adjustments for any overpayments.

(g) The exemption will apply at the beginning of the next assessable period following notification of approval of the assessment exemption, in writing, by the committee or board.

[70 FR 2770, Jan. 14, 2005]

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

Subpart—Order Regulating Handling

DEFINITIONS

Sec.	
905.1	Secretary.
905.2	Act.
905.3	Person.
905.4	Fruit.
905.5	Variety.
905.6	Producer.
905.7	Handler.
905.8	Prepare for market.
905.9	Handle or ship.
905.10	Carton or standard packed carton.
905.11	Fiscal period.
905.12	Committee.
905.13	District.
905.14	Redistricting.
905.15	Regulation Area I.
905.16	Regulation Area II.
905.17	Production area.
905.18	Improved No. 2 grade and Improved No. 2 Bright grade.

ADMINISTRATIVE BODIES

905.19	Establishment and membership.
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