



Agricultural Marketing Service

7 CFR Part 1212

[Doc. No. AMS-SC-25-0122]

Honey Packers and Importers; Increased Assessment Rate

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the National Honey Board to increase the assessment rate for first handlers and importers from 1.5 cents (\$0.015) per pound of assessable honey and honey products to 2 cents (\$0.02) per pound of assessable honey and honey products over two fiscal periods. The proposed assessment rate would remain in effect indefinitely until modified or terminated.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL].

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments may be mailed to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0244, Washington, DC 20250-0237; submitted by fax: (202) 720-8938; or submitted electronically by email: SM.USDA.MRP.AMS.MDDComment@usda.gov; or via the Federal e-rulemaking portal at <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the *Federal Register*. The identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above. Do not submit confidential business information or otherwise proprietary, sensitive, or protected information. Comments are posted to [regulations.gov](https://www.regulations.gov) without change.

FOR FURTHER INFORMATION CONTACT: Katie Cook, Marketing Specialist, or Alexandra Caryl, Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (202) 720-8085 or via email: Katie.Cook@usda.gov or Alexandra.Caryl@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule affecting the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (7 CFR part 1212) (Order) is authorized by the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425) (Act).

Executive Order 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order. Additionally, this action is exempt from the requirements of Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” The AMS has assessed the impact of this proposed rule on Indian Tribes and determined that this rule would not have Tribal implications that require consultation under Executive Order 13175.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, “Civil Justice Reform.” It is not intended to have retroactive effect. Section 524 of the Commodity Promotion, Research, and Information Act of 1996 (the Act) (7 U.S.C. 7423) provides

that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

Under the Order, the National Honey Board (NHB or Board) administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the honey industry's position in the marketplace, and to establish, maintain, and expand markets for honey and honey products. To fund the program, 7 CFR 1212.52 authorizes the Board to collect assessments on first handlers and importers who handle and/or import more than 250,000 pounds of honey or honey products per calendar year.

Currently, first handlers and importers who handle and/or import more than 250,000 pounds per calendar year pay \$0.015 per pound of assessable honey and honey products. The Order specifies that first handlers are responsible for paying the assessment to the Board on all domestically produced honey and honey products the first handler

handles. Producers who are first handlers are responsible for paying the assessment to the Board. Importers are responsible for payment of assessments to the Board on all honey and honey products the importer imports into the United States through the United States Customs and Border Protection (Customs).

The assessment rate has changed once since the program was established in 2008. In 2015, the assessment rate increased from \$0.01 to the current rate of \$0.015. Pursuant to 7 CFR 1212.52(f), the Board may recommend to the Secretary an assessment change as it deems appropriate by at least two-thirds vote of members present at a meeting of the Board. Additionally, the Order specifies that the recommendation may not increase the assessment by more than \$0.02 per pound and by more than \$0.0025 in any single fiscal year.

Board Recommendation to Adjust the Assessment Rate

This proposed rule would amend 7 CFR 1212.52(a) by increasing the assessment rate from \$0.015 per pound to \$0.0175 per pound, effective June 1, 2026, and another increase to \$0.02 per pound, effective January 1, 2027.

The Board first discussed this recommendation at their spring 2024 meeting. In June 2024, the Board shared the potential of an assessment increase at the National Honey Packers and Dealers Association (NHPDA) meeting. The NHPDA voted to request NHB raise the assessments to \$0.02. The Board met on October 25, 2024, and voted 9 in favor to 1 opposed to recommend the assessment increase from \$0.015 cents to \$0.02 cents per pound of assessable honey

Since the last assessment change in 2015, inflation in the U.S. has risen 36%. When applying this increase across costs for staffing, promotion, and research, it significantly affects the Board's budget and contracts with agency partners. Although NHB's assessment revenue has increased slightly since 2023, inflation and the cost of conducting business have outpaced it. Consequently, the Board's effectiveness is

compromised due to the loss of purchasing power, which limits implementation of necessary promotion and research projects.

The Board's budget also continues to be constrained by rising reimbursement requests on imported organic honey. Pursuant to 7 CFR 1212.53(c), products that are 100 percent organic, as defined by the National Organic Program, may be exempt from assessments under the Order. Customs collects assessments on all imported honey and honey products, meaning importers must request a reimbursement from the NHB for any certified organic honey that was assessed. Aside from the costs incurred to process these reimbursement requests, the Board must set aside substantial funds for reimbursements requested throughout the fiscal year and 90 days into the next fiscal year as required by 7 CFR 1212.53(e)(1). This causes the Board to be more conservative with promotion and research efforts to ensure funds are available to reimburse these assessments. By increasing assessments, the Board will fund promotion and research efforts with less concern of having to move funds to cover reimbursement requests for certified organic honey.

Initial Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS is required to examine the impact of the proposed rule on small entities.

Accordingly, AMS has considered the economic impact of this action on such entities.

This rule proposes an increased assessment rate on importers and handlers of \$0.02 per pound of honey. Based on the calculated volume of honey assessed in 2024, described below, the increased assessment rate would add \$2.99 million to the program's budget, with \$2.42 million being paid by importers and \$567,782 paid by handlers. Assessments are applied uniformly to all first handlers and importers who handle or import an amount of honey above the de minimis threshold of 250,000 pounds. This

proposed action would increase the assessment imposed on first handlers and importers but not disproportionately burden small domestic first handlers and importers.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. The Small Business Administration (SBA) defines small agricultural producers of honey as those having annual receipts equal to or less than \$3.25 million (North American Industry Classification System (NAICS code 112910, Apiculture)) (13 CFR 121.201), and small agricultural service firms (first handlers and importers) as those having annual receipts equal to or less than \$34 million (NAICS code 115114, Postharvest Crop Activities except Cotton Ginning).¹

The Board reported there were 95 importers and 34 first handlers of honey and honey products covered under the program during the 2024 fiscal period. Total assessments for 2024 were \$8.96 million, of which 81 percent was paid by importers and 19 percent was paid by first handlers. This data can be used to estimate the average annual revenue from honey sales of importers and first handlers along with determining the number of these considered to be small businesses based on the SBA definitions. Of total paid assessments in 2024, importers paid \$7.26 million, and first handlers paid \$1.70 million. The amount of honey assessed in pounds can be calculated by dividing 2024 assessment values by the 2024 assessment rate of \$0.015 per pound. This results in assessed honey volumes of 484.11 million pounds for importers and 113.56 million pounds for first handlers. Based on analysis of Customs and Border Protection importer data, the 2024 average importer price for honey was \$5.34 per pound. Little data is

¹ The activities of honey handler and importers span multiple NAICS classifications in industry group 311999 – All Other Miscellaneous Food Manufacturing. The small business size standards associated with these classifications are defined by number of employees; however, with the data available to USDA, basing the definition of a small business on average annual receipts results in a more meaningful analysis of the impact of the rule on honey handlers and importers in the RFA. Therefore, USDA used the definition of a small firm which engages in “Postharvest Crop Activities (except Cotton Ginning)” as a more appropriate criterion for this analysis.

available regarding handler prices; therefore, USDA used this estimated importer price as a proxy for handler price for the purposes of this RFA. Multiplying the estimated importer and handler price of \$5.34 per pound by the 2024 assessed volumes results in estimated 2024 total revenues for assessed entities of \$2.59 billion for the 95 assessed importers and \$606.39 million for the 34 assessed handlers. Assuming equal distribution of revenues, per entity annual receipts would be \$27.21 million per importer and \$17.83 million per handler, both below the SBA threshold for a small business, which calls for annual receipts no greater than \$34 million.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the Order have been approved under OMB control number 0581-0093.

As with all Federal research and promotion programs, reports and forms are periodically reviewed to reduce the burden of 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 proposed 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.

Regarding alternatives, the Board considered not making the proposed changes to the Order and leaving it as-is. If the Order was left unchanged, operational costs and services provided by the Board would continue to be issues that could result in the Board failing to cover its expenses through assessments as prescribed by 7 CFR 1212.52(a). After considering these potential issue, the Board decided against leaving the Order unchanged.

Regarding outreach efforts, the Board discussed the assessment rate change at its meetings throughout 2024. Board staff also traveled to industry events, like the NHPDA

meeting, to garner feedback and gauge support. On October 25, 2024, the Board voted to recommend the assessment rate change to the Secretary. The members who voted represent producers, handlers, importers, and the industry marketing cooperative. AMS performed this initial RFA analysis regarding the impact of this action on small entities and invites comments concerning the potential effects of this action.

USDA has determined that this proposed rule, if finalized, is consistent with and would effectuate the purposes of the Act. A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer education, Honey and honey products, Marketing agreements, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to revise 7 CFR part 1212 as follows:

PART 1212 - HONEY PACKERS AND IMPORTERS RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

1. The authority citation for part 1212 continues to read as follows:

Authority: 7 U.S.C. 7411-7425; 7 U.S.C. 7401.

2. Amend § 1212.52 by revising paragraph (a) to read as follows:

§ 1212.52 Assessments.

(a) The Board will cover its expenses by levying in a manner prescribed by the Secretary an assessment on first handlers and importers. Through May 31, 2026, the assessment rate shall be \$0.015 per pound of assessable honey and honey products. For

the period of June 1, 2026, through December 31, 2026, the assessment rate shall be \$0.0175 per pound of assessable honey and honey products. On and after January 1, 2027, the assessment rate shall be \$0.02 per pound of assessable honey and honey products.

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Erin Morris,
Administrator,
Agricultural Marketing Service.

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