

# Proposed Rules

This section of the **FEDERAL REGISTER** contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 11

### National Appeals Division Rules of Procedure

**AGENCY:** Office of the Secretary, National Appeals Division, USDA.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** This notice reopens and extends until July 6, 1995, the comment period on the proposed National Appeals Division Rules of Procedure that were published in the **Federal Register** on May 22, 1995 (60 FR 27044-27049). The original closing date for receipt of comments was June 21, 1995. Comments received during the interim between that date and the publication date of this notice also will be accepted. Respondents now are given a 45-day period from the original date of publication to comment.

**DATES:** Written comments via letter, facsimile, or Internet must be received on or before 5:00 p.m., July 6, 1995.

**ADDRESSES:** Comments should be sent to L. Benjamin Young, Jr., Office of the General Counsel, Research and Operations Division, AgBox 1415, United States Department of Agriculture, Washington, D.C. 20250-1415; fax number: 202/720-5837; Internet: [hqdoma-in.lawpo.young@sies.wsc.ag.gov](mailto:hqdoma-in.lawpo.young@sies.wsc.ag.gov).

**FOR FURTHER INFORMATION CONTACT:** L. Benjamin Young, Jr., at the above address or 202/690-1979.

Done at Washington, D.C., this 21st day of June, 1995.

**Dan Glickman,**

*Secretary of Agriculture.*

[FR Doc. 95-15702 Filed 6-22-95; 12:32 pm]

BILLING CODE 3410-01-M

## Federal Register

Vol. 60, No. 122

Monday, June 26, 1995

## Agricultural Marketing Service

### 7 CFR Part 965

#### [Docket No. FV95-965-1PR]

### Tomatoes Grown in the Lower Rio Grande Valley in Texas; Proposed Termination of Marketing Order 965

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to terminate the Federal marketing order for tomatoes grown in the Lower Rio Grande Valley in Texas (order) and the rules and regulations issued thereunder. In recent years, this industry has declined significantly in numbers of producers and handlers. In March 1959, when the order commenced, there were 2,488 producers and 61 handlers of tomatoes. Currently, there are approximately 10 producers, 5 of which are also handlers. The Texas Valley Tomato Committee (committee) last met on October 1, 1991, to conduct nominations. However, only a few of the former committee members are currently producers or handlers in the tomato industry and eligible to serve on the committee. Handling regulations have not been implemented since the 1973-74 fiscal period and there is no indication that the industry will be revived. Thus, there is no need for the Department of Agriculture to continue operation of this order.

**DATES:** Comments must be received by July 26, 1995.

**ADDRESSES:** Interested person are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

James B. Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 720-2170, or Belinda G. Garza, McAllen

Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone (210) 682-2833.

**SUPPLEMENTARY INFORMATION:** This proposed rule is governed by the provisions of § 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act and § 965.84 of the order.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposed termination of the order has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposed rule 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 § 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. After the hearing the Secretary 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 a principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 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 10 producers, 5 of which are also handlers who would be subject to seasonal handling regulations under the order, but none have been recommended since the early 1970's. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of the remaining South Texas tomato producers and handlers may be classified as small entities.

The order was initially established in March 1959, to help the industry solve its marketing problems and maintain orderly marketing conditions. It was the responsibility of the Texas Valley Tomato Committee (committee), the agency established for local administration of the marketing order, to periodically investigate and assemble data on the growing, harvesting, shipping, and marketing conditions of tomatoes. The committee endeavored to achieve orderly marketing and improve acceptance of Texas tomatoes through establishment of minimum size and quality requirements. When regulated, fresh tomato shipments consisted only of those grades and sizes desired by consumers, thus, tending to increase returns to producers and handlers.

During the first year the order was in effect, there were 2,488 producers and 61 handlers of South Texas tomatoes. Over the years, commercial production and handling of tomatoes grown in South Texas have declined significantly. As a consequence, handling requirements have not been applied since the early 1970's and there is no indication that the industry will be revived or that regulations will be needed.

In September 1994, the Department conducted interviews with former and remaining industry members to determine whether they expected a revival of South Texas tomato production in the next two years. Industry members did not give any indication that the industry would be revived. Former industry members that were interviewed stated that they did not plan to resume tomato production. They reported that the decline in the industry was caused by a lack of new tomato varieties adaptable to South Texas, which could make it more competitive with Mexico and Florida.

Further, as stated above, there are currently only 10 producers, 5 of which

are also handlers. Without an adequate number of producers and handlers, the Department cannot appoint the required committee of members and alternates, or otherwise continue the operation of the order.

The committee holds a certificate of deposit in the amount of \$3,778.16, which matures on September 23, 1995, and a savings account that totals \$514.23. At the last meeting in 1991, the committee recommended that any funds exceeding the expense of termination should be donated to an institution that conducts research for agriculture in the Lower Rio Grande Valley of South Texas.

Therefore, based on the foregoing, pursuant to § 608c(16)(A) of the Act and § 965.84 of the order, the Department is considering the termination of Marketing Order No. 965, covering tomatoes grown in the Lower Rio Grande Valley in Texas. If the Secretary decides to terminate the order, trustees would be appointed to continue in the capacity of concluding and liquidating the affairs of the former committee, until discharged by the Secretary.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order.

Based on the foregoing, the Administrator of the AMS has determined that this action would not have a significant impact on a substantial number of small entities.

#### List of Subjects in 7 CFR Part 965

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 965 is proposed to be removed.

#### PART 965—[REMOVED]

1. The authority citation for 7 CFR part 965 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Accordingly, 7 CFR part 965 is removed.

Dated: June 20, 1995

**Lon Hatamiya,**  
Administrator.

[FR Doc. 95-15509 Filed 6-23-95; 8:45 am]

BILLING CODE 3410-02-P

#### Commodity Credit Corporation

#### 7 CFR Part 1494 and 1570

#### Export Bonus Programs

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Advance Notice of Proposed Rule Making.

**SUMMARY:** This document requests comments on three options to reform the USDA/Commodity Credit Corporation's Export Bonus Programs: The Export Enhancement Program (EEP), the Dairy Export Incentive Program (DEIP), the Sunflower Oil Assistance Program (SOAP), and the Cottonseed Oil Assistance Program (COAP). Options for reform of these export bonus programs are being considered as an effort to respond to the General Agreement on Tariff and Trade (GATT) Uruguay Round Agreement that established new mandates for USDA/CCC's export subsidy programs.

Additionally, the reform options considered could make these programs more flexible in responding to changing world market conditions and serve to fulfill policy goals for increased administrative efficiency and lower program costs.

**DATES:** Comments must be submitted on or before July 26, 1995.

**ADDRESSES:** Comments should be sent to L.T. McElvain, Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, AG Box 1035, Washington, D.C., 20250-1035; FAX (202) 720-2949 or 720-0938. All comments received will be available for public inspection at the above address during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Christopher E. Goldthwait, General Sales Manager, at the address stated above. Telephone (202) 720-5173. The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720-5881 (voice) or (202) 720-7808 (TAD).

#### SUPPLEMENTARY INFORMATION:

#### Background

Since 1985, USDA/CCC has operated export subsidy programs for a variety of commodities, including wheat and wheat flour, barley and barley malt, rice, poultry, table eggs, vegetable oils, pork and dairy products. Wheat and wheat flour have received the largest share of subsidy dollars, accounting for 75 percent of the total export subsidies in 1994.