A proposed rule concerning this suspension was issued on April 18, 1995, and published in the **Federal Register** on April 24, 1995 (60 FR 60059). That rule provided a 20-day comment period which ended May 15, 1995. Six comments were received, four in support and two opposed to the proposed rule.

Comments received in favor of suspending the regulations for domestic and imported oranges as proposed were submitted by Mr. David M. Cain of the Citrus Board of South Australia (Citrus Board), Mr. N. Perry Hansen of Waverly Growers Cooperative, and Mr. Gregory P. Nelson on behalf of DNE World Fruit Sales and Bernard Egan & Company.

Mr. Cain states that the Citrus Board speaks on behalf of almost 900 South Australian citrus growers. It is his contention that the suspension of the regulation during the months of July and August, when under current arrangements, South Australian oranges arrive in the United States, will remove an unnecessary obstacle to their importation. He points out that there are no maximum decay level restrictions imposed on imports of U.S. oranges into Australia. Mr. Hansen supports the suspension, as proposed.

Mr. Nelson stated that, as president of a major exporter of Florida citrus and a major grower of Florida citrus, it is important that all import requirements in the United States be reasonable and fair. He further stated that he expects no adverse consequences on the domestic industry as a result of implementation of the proposed suspension.

Comments in opposition to the suspension of the orange regulations were submitted by Mr. Dwayne Bair, Chairman of the Texas Valley Citrus Commitee and Mr. Bobby F. McKown, Executive Vice President/CEO of Florida Citrus Mutual.

Mr. Bair states that the proposal is contrary to the Committee's recommendation which was to relax the Texas orange regulations for a single season rather than suspending them indefinitely as proposed. The Committee recommended relaxing the effective dates of the regulatory period for Texas oranges from July 15 through August 31, 1995, for one year only. As explained earlier in this rule, past and present production and shipping trends support suspending the orange regulations during the period July 1 through August 31 indefinitely. Also as previously stated an annual evaluation will be conducted to determine the impact of this suspension on the Texas orange industry.

Mr. McKown believes that any reduction in the grade, size, quality, or maturity requirements for fresh oranges, could pose long-term adverse consumer perceptions of the quality of fresh oranges offered for sale in the United States by Florida citrus growers. He further postulates that the suspension of the regulations will further depress returns to Florida citrus growers.

The Department currently has no information to support Mr. McKown's contention that the suspension will depress returns to Florida citrus growers. A review of the impact of the suspension will be conducted annually. If it is determined that the domestic industry has been negatively impacted, appropriate modifications will be proposed to the suspension.

This suspension reflects the Department's appraisal of the need to revise the dates of the regulatory period for imported oranges, as hereinafter set forth, to effectuate the declared policy of the Act.

After thoroughly analyzing the comments received and other available information the Department has concluded that its decision to suspend the orange regulations during the above mentioned period is appropriate.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this suspension, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this suspension should be in effect on July 1, 1995. Also, a 20-day comment period was provided for in the proposed rule.

List of Subjects

7 CFR Part 906

Oranges, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 906 and 944 are amended as follows:

PART 906—ORANGES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for both 7 CFR parts 906 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 906.365, a new paragraph (a)(7) is added, to read as follows:

§ 906.365 Texas Orange and Grapefruit Regulation 34.

(a) * * *

(7) Beginning in 1995, this paragraph (a) is suspended each year from July 1 through August 31 of each year.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

3. In § 944.312, paragraph (a) is amended, by adding a sentence at the end of the paragraph to read as follows:

§ 944.312 Orange import regulation.

(a) * * * Effective July 1 through August 31 of each year this paragraph is suspended.

* * * * *

Dated: June 22, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–15858 Filed 6–26–95; 5:08 pm]

BILLING CODE 3410–02–P

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7 CFR Parts 926 and 944

[Docket No. FV95–926–1FR]

Termination of Marketing Order 926 Covering Tokay Grapes Grown in San Joaquin County, California, and Tokay Grape Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination order.

SUMMARY: This action terminates the Federal marketing order for Tokay grapes grown in San Joaquin County, California, and the rules and regulations issued thereunder. For Tokay grapes imported into the United States, this order terminates the applicable Tokay grape import regulation under section 8e of the amended Agricultural Marketing Agreement Act of 1937 (Act). The Secretary of Agriculture has determined that the marketing order no longer tends to effectuate the declared policy of the Act because continuance of the program is no longer supported by growers.

EFFECTIVE DATE: July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order

Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 720–5127, or Rose Aguayo, California Marketing Field Office, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This termination order 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.''

This termination order is issued under Marketing Order No. 926 (7 CFR part 926), as amended, regulating the handling of Tokay grapes grown in San Joaquin County, California, hereinafter referred to as the ''order.''

This termination order is also issued under section 8e of the Act, which requires the Secretary of Agriculture to issue grade, size, quality, or maturity requirements for certain listed commodities imported into the United States that are the same as, or comparable to, those imposed upon the domestic commodities under Federal marketing orders.

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

This termination order has been reviewed under Executive Order 12778, Civil Justice Reform. This order is not intended to have retroactive effect. This termination order will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this order.

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. 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 date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

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. Import regulations issued under the Act are based on those established under Federal marketing orders.

In recent seasons, 15 California Tokay grape growers within the production area and 3 handlers have been subject to regulation under the marketing order. There are no known importers of Tokay grapes. 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 Tokay grape handlers and growers may be classified as small entities.

Marketing Order No. 926 has been in effect since August 20, 1940. The marketing order provides for the establishment of grade, size, quality, maturity, volume, pack and container requirements. In addition, the order authorizes marketing research and development projects.

This order terminates the provisions of the marketing order regulating the handling of Tokay grapes grown in San Joaquin County, California, and the rules and regulations issued thereunder.

In recent years, it has been difficult for Tokay grape handlers to find a market for their inventory. Lack of demand and increasing production costs have left growers with few outlets and little incentive to produce Tokay grapes. Acreage has declined due to the lack of a market for fresh shipments of Tokay grapes thereby resulting in vines continually being pulled or re-grafted with other varieties. Wineries are less inclined to use Tokay grapes due to competition from other varietal grapes. The number of handlers and growers has also declined.

The Industry Committee (committee), which is responsible for local administration of the order, held a public meeting on October 21, 1994. Growers and handlers were informed of the time, place and date of the meeting. At the meeting, attendees signed a petition requesting that the marketing order be terminated. The industry recommended that the marketing order be terminated at the end of the 1994–95 fiscal period which is March 31, 1995. The industry recommended terminating the marketing order because only three handlers were shipping to the fresh market. The decline in the number of handlers, increased difficulty in finding outlets for their inventory and increased production costs, led to the request.

All of the 15 growers who signed the petition at the October 21, 1994, public meeting, favored termination. This was 100 percent of the growers who produced for market in 1994. As all known growers in the industry participated in the public meeting, there was 100 percent representation.

Given the high level of grower participation at the public meeting, as well as the demonstrated lack of grower support for the order, these results are a reliable indicator of industry sentiment, and clearly demonstrate that growers do not favor continuation of the order.

Section 926.78(b) of the order provides that the Secretary may terminate or suspend the operation of any or all of the provisions of the order whenever he/she finds that any such provision obstructs or does not tend to effectuate the declared policy of the Act.

Therefore, based on the foregoing considerations, pursuant to section 608c(16)(A)(i) of the Act, and § 926.78(b) of the marketing order, it is found that Marketing Order No. 926, covering Tokay grapes grown in San Joaquin County, California, no longer tends to effectuate the declared policy of the Act and is hereby terminated.

Section 8c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on February 24, 1995.

This rule also terminates all regulations in effect under the order pertaining to Tokay grapes grown in San Joaquin County, California which are shipped to domestic and foreign markets. These regulations cover grade, size, quality, maturity, volume, pack and container requirements.

Based on the unanimous recommendation of the industry, the Secretary has determined that all members of the Industry Committee will serve as trustees in order to oversee the administrative affairs of the order.

The trustees will be responsible for completing the order's unfinished

business, including ensuring termination of all outstanding agreements and contracts, and the payment of all obligations. The trustees will be responsible for safeguarding program assets, holding committee records, and arranging for a financial audit to be conducted. All such actions by the trustees are subject to the approval of the Secretary. Those designated as trustees are John Graffigna, Duane M. Jungblut, Jeryl R. Fry, Jr., Burgess R. Mettler, Bruce A. Mettler, James R. Lauchland, and George H. Mettler. The trustees shall continue in their capacity until discharged by the Secretary.

The remainder of the reserves, after immediate expenses are paid, will be held by the trustees to be used to cover unforeseen, outstanding expenses obligated by the trustees.

In accordance with section 8e of the Act (7 U.S.C. 608e), imported Tokay grapes are subject to the same minimum requirements as domestically produced Tokay grapes. With no effective order for domestic Tokay grapes, there is no basis upon which to continue the import regulation as provided for in sections 944.503(a)(3), 944.503(e), (7 CFR 944.503) and 944.605 (7 CFR 944.605). This order revises provisions of § 944.503 Table Grape Import Regulation 4, paragraph(a)(3), by deleting the reference to Tokay grape import requirements for the period April 20 through August 11 of each year. This order also deletes provisions of § 944.503 paragraph(e) which provide import requirements for Tokay grapes imported into the United States during the period, April 20 through August 11. This order redesignates 944.503(f) as 944.503(e) and terminates section 944.605 in its entirety.

This order also revises § 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, limes, olives, oranges, table grapes, and Tokay grapes exempt from grade, size, quality, and maturity requirements. Specifically, § 944.350(a)(1) and (2) are revised by deleting all references to Tokay grapes.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this termination order.

Based on available information, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give additional preliminary notice, or to engage in further public procedure with respect to this action, because (1) this action relieves restrictions on handlers by terminating the provisions of part 926 and applicable provisions of part 944; (2) only three handlers were shipping fruit to the fresh market in fiscal period 1994–1995, and (3) the industry recommended terminating the marketing order at a public meeting held on October 21, 1994.

List of Subjects

7 CFR Part 926

Grapes, Marketing Agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 926 and 944 are amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR parts 926 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 926—[REMOVED]

2. Accordingly, 7 CFR part 926 is removed.

PART 944—FRUITS; IMPORT REGULATIONS

3. § 944.503 is amended by revising paragraph (a) (3), removing (e) and redesignating paragraph(f) as paragraph (e) to read as follows:

§ 944.503 Table Grape Import Regulation 4.

(a) * * *

(3) All regulated varieties of grapes offered for importation shall be subject to the grape import requirements contained in this section effective April 20 through August 15.

* * * * *

§ 944.605 [Removed]

4. § 944.605 is removed.

§ 944.350 [Amended]

5. § 944.350 is amended by removing the words ''Tokay grapes'' wherever they appear.

Dated: June 22, 1995.

David R. Shipman,

Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–15949 Filed 6–28–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1230

[No. LS–94–008]

Pork Promotion, Research, and Consumer Information Program—Change in Requirements for Annual Financial Audits

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule and termination order.

SUMMARY: This document terminates the provision of the Pork Promotion, Research, and Consumer Information Order (Order) containing requirements for submission of annual financial reports to the National Pork Board (Board) by organizations that receive less than $10,000 in annual distributed assessments; and issues new requirements in the regulations to implement the Order provisions. The new requirements raise the minimum annual revenue requiring a certified public accountant audit from $10,000 to $30,000. This change facilitates the cost-effective preparation and submission of annual financial reports.

EFFECTIVE DATE: July 31, 1995.

ADDRESSES: Ralph L. Tapp, Chief, Marketing Programs Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS), USDA, Room 2606–S, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12778 and Regulatory Flexibility Act

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

This action has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule is not intended to have a retroactive effect. The Pork Promotion, Research, and Consumer Information Act (Act) states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an