

These order requirements have helped ensure that only quality product reaches the consumer. Quality requirements have helped increase and maintain demand for Colorado potatoes over the years. The compilation and dissemination of statistical information has helped producers and handlers make production and marketing decisions. Funds to administer the order are obtained from handler assessments.

Regarding complaints or comments received from the public concerning the order, USDA received two comments, one each from the Area No. 2 and Area No. 3 Committees. Both comments were in favor of the continuation of the order and addressed each of the five factors under consideration by AMS.

Marketing order issues and programs are discussed at public meetings, and all interested persons are allowed to express their views. All comments are considered in the decision making process by the area committees and the USDA before any program changes are implemented.

In considering the order's complexity, AMS has determined that the order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for Colorado potatoes. There is a Colorado State marketing order for potatoes authorized to conduct programs similar to those under the Federal order. However, the State program cooperates with the Federal order to ensure that their efforts are not duplicative. For instance, the State order currently conducts production and marketing research and market promotion, which are authorized—but not being conducted—under the Federal order.

The order was established in August 1941. During the 65 years the order has been effective, AMS and the Colorado potato industry have continuously monitored marketing operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of periodic evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The CPC and both area committees meet several times a year to discuss the order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a

result, regulatory changes have been made numerous times over the years to address industry operation changes and to improve program administration. In addition, in 1960, the area committees made several recommendations to improve quality regulations and program operations through formal amendment of the order. An amendment hearing was subsequently held in Denver, Colorado, on February 1–2, 1960, to receive evidence regarding the recommendations. As a result, a referendum was held June 20–28, 1960, to determine producer support for the proposed amendments. The proposed amendments were favored by a majority of the producers voting in the referendum.

Based on the potential benefits of the order to producers, handlers, and consumers, AMS has determined that the Colorado potato marketing order should be continued. The order was established to help the Colorado potato industry work with USDA to solve marketing problems. The order regulations on grade, size, quality, maturity, pack, container, and marketing research and development activities continue to be beneficial to producers, handlers, and consumers. AMS will continue to work with the Colorado potato industry in maintaining an effective marketing order program.

Dated: June 21, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[Docket No. : AMS–FV–07–0019; FV–06–704 FR]

Mushroom Promotion, Research, and Consumer Information Order; Reallocation of Mushroom Council Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that reapportioned the membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production. The final rule continues in effect the realignment of the Mushroom Promotion, Research,

and Consumer Information Order's (Order) four United States geographic regions, and reallocates Council member representation in two of the four United States geographic regions (Regions 1 and 4). The Council, which administers the Order, proposed the amendments in conformance with Order requirements to review—at least every 5 years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume. These changes to the Council are effective for the Secretary of Agriculture's 2008 appointments.

DATES: Effective Date: July 27, 2007.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order [7 CFR part 1209]. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112].

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to the Order may file a written petition with the Department of Agriculture (Department) if they believe that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with law. In any petition, the person may request a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides

or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

Final Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (importers) as having receipts of no more than \$6,500,000. There are 97 producers and 18 importers subject to the Order, and thus, eligible to serve on the Council. The majority of these producers and importers are considered small entities as defined by the Small Business Administration. Producers and importers of 500,000 pounds or less of mushrooms for the fresh market are exempt from the Order.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceed 35,000,000 pounds of mushrooms annually. The Order also specifies that the Council will review—at least every five years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly.

At its June 2006 meeting, the Council reviewed mushroom production volume in the United States and import volume for the July 1, 2002, through June 30, 2005, yearly periods. Based on the data, the Council reviewed and discussed reapportionment proposals. After considerable discussion, the Council approved a reapportionment proposal for recommendation to the Department. The Council recommended reapportionment of the Order's four United States geographic regions, and the reallocation of Council member

representation in two of the four United States regions (Regions 1 and 4) to reflect shifts in United States mushroom production.

This rule adopts the interim final rule that realigns the four United States geographic regions, and reallocates Council member representation in two of the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the number of Council member representation is reallocated as follows: from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remains unchanged at three members, two members, and one member respectively.

The overall impact is favorable for producers and importers because the producers and importers will have more equitable representation on the Council based on United States mushroom production volume and import volume.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR Part 1320] which implements the Paperwork Reduction Act of 1995 (PRA) [44 U.S.C. Chapter 35], the information collection requirements under the PRA, there are no new requirements contained in this rule. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581-0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved. In terms of alternatives to this rule, this action reflects the volume thresholds and procedures that have been established previously under the provisions of the Order for reallocation of Council membership.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

Background

The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101-6112], and is administered by the Council. Under the Order, the Council administers a nationally coordinated program of research, development, and information designed to strengthen the fresh mushroom's position in the market place and to

establish, maintain, and expand markets for fresh mushrooms. The program is financed by an assessment of \$0.0043 cents per pound on any person who produces or imports over 500,000 pounds of mushrooms for the fresh market annually. Under the Order, handlers collect and remit producer assessments to the Council, and assessments paid by importers are collected and remitted by the United States Customs Service.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceed 35,000,000 pounds of mushrooms annually.

Section 1209.30(d) of the Order provides that at least every five years and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years. Based on the review, the Council is required to recommend reapportionment of the regions or modification of the number of members from such regions, or both, to reflect shifts in the geographic distribution of mushroom production volume and importer representation.

The Order provides that each producer region that produces, on average, at least 35 million pounds of mushrooms annually is entitled to one member. Further, each producer region is entitled to an additional member for each 50 million pounds of annual production, on average, in excess of the initial 35 million pounds required to qualify for representation, until the nine seats on the Council are filled. For purposes of this rule and as provided under the Order, "on average" reflects a rolling average of production or imports during the last three fiscal years.

Under the current Order, regions and Council member representation for each region are the following: Region 1: Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota, Vermont, Wisconsin, and Wyoming—1

producer member; Region 2: Delaware, Maryland, New Jersey, Pennsylvania, the District of Columbia, West Virginia, and Virginia—3 producer members; Region 3: Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington—2 producer members; Region 4: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, the Commonwealth of Puerto Rico, South Carolina, Tennessee, and Texas—2 producer members; and Region 5: importers; 1 member. Based on data for July 1, 2002, through June 30, 2005, there are about 725 million pounds of mushrooms assessed on average annually under the Order. Currently, the Order's Regions 1, 2, 3, 4, and 5 represent 32 million pounds, 382 million pounds, 133 million pounds, 113 million pounds, and 65 million pounds, respectively. Since Region 1 represents 32 million pounds of mushroom production, the region no longer qualifies for member representation because production within the region falls below the 35 million pounds Order requirement.

Based on data for the July 1, 2002, through June 30, 2005, the Order is revised to reapportion membership of the Council to reflect shifts in the geographic distribution of mushroom production. The annual average production of mushrooms for the Order's Regions 1, 2, 3, 4, and 5 as adopted in this rule will be 168 million pounds, 382 million pounds, 109 million pounds, 0 million pounds, and 65 million pounds. As adopted in this rule, Regions 1, 2, and 3 will be comprised of states with mushroom production, and Region 4 will be comprised of all other states with no mushroom production.

Based on a review of United States mushroom production volume and import volume, this rule adopts amendments to change the four United States geographic regions as follows: Region 1—the States of Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—all other States including the District of Columbia and the Commonwealth of Puerto Rico. Also, the amendments changes the number of Council member representatives from one member to three members for Region 1 and from two members to zero members for Region 4. Representation for Region 2, Region 3, and importers remain unchanged at three members, two members, and one member, respectively. The amendments, which

represent shifts in mushroom production volume, provides more equitable producer and importer representation on the Council based on U. S. mushroom production volumes and import volumes.

Nominations and appointments to the Council are conducted pursuant to §§ 1209.30 and 1209.230. Nominations for Council positions for terms of office that begin January 1, 2008 will be based on the amendments contained in this rule.

An interim final rule that reapportions the four United States geographic regions, and reallocates Council member representation under the Order was published in the **Federal Register** on March 19, 2007 [72 FR 12701]. The interim final rule provided for a 30-day comment period, which ended on April 18, 2007. One comment was received from the Council supporting the change.

After consideration of all relevant material presented, including the Board's recommendation and other information, the interim final rule as published in the **Federal Register** (72 FR 12701, March 19, 2007) is adopted, as a final rule, without change.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mushroom promotion, Reporting and recording, Requirements.

■ For the reasons set forth in the preamble, 7 CFR part 1209 is amended as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1209 continues to read as follows:

Authority: 7 U.S.C. 6101–6112.

■ Accordingly, the interim final rule amending 7 CFR part 1209, which was published in the March 19, 2007, **Federal Register** at 72 FR 12701 is adopted as a final rule without change.

Dated: June 21, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

RIN 3150–AH62

Conforming Administrative Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is making conforming changes to citations in the regulatory text. This action is necessary to inform the public of these conforming changes to NRC regulations.

DATES: *Effective Date:* June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Michael K. Williamson, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6234, e-mail: mkw1@nrc.gov.

SUPPLEMENTARY INFORMATION: In September 2000, when part 70 was amended, a new Subpart H to part 70 was added which resulted in former § 70.61 being redesignated as § 70.81 and former § 70.62 being redesignated as § 70.82. Additionally, former § 70.71 was redesignated as § 70.91. NRC is amending its regulations to make conforming changes to citations in the regulatory text by replacing § 70.61 with § 70.81, replacing § 70.62 with § 70.82, and replacing § 70.71 with § 70.91, to update and correct cross-references within 10 CFR part 70. In addition, in September 2000, § 70.14 was redesignated as § 70.17 as referenced in § 70.51.

Because these amendments deal solely with correcting cross references in the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply, under 5 U.S.C. 553(b)(B), because good cause exists to make these ministerial changes without unnecessary notices and public procedure. This amendment will become effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, under 5 U.S.C. 553(d)(3), because this amendment is of a minor and administrative nature.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an