

of organic handling. This flexibility is intended to minimize the impact on small entities. This proposed rule would also remove the allowance for one nonorganic agricultural substance, annatto extract, in organic handling. The NOSB has determined that annatto extract is commercially available in organic form in sufficient quantities for organic handling. AMS concludes that the economic impact of this amendment to the National List, if any, would be minimal to small agricultural service firms and may spur further development of organic annatto production. Accordingly, AMS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

*D. Paperwork Reduction Act*

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, and Chapter 35.

*E. Executive Order 13175*

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

*F. General Notice of Public Rulemaking*

This proposed rule addresses recommendations submitted to the Secretary by the NOSB for substances on the National List of Allowed and Prohibited Substances. A 30-day period for interested persons to comment on this rule is provided. Thirty days is deemed appropriate because potential changes to these listings were widely publicized through two NOSB meetings. Further, certain proposed amendments, one for potassium hydroxide in organic handling, and those for peracetic acid in organic crop production, are considered time sensitive and critical to organic production. The proposed amendment to the listing for potassium hydroxide would provide more tools for organic peach processors by allowing use of this substance to peel peaches for canning, in addition to its current allowance to peel peaches for frozen products. The proposed amendments to the listings for peracetic acid would ensure consistency with EPA labeling requirements for hydrogen peroxide products containing peracetic acid.

**List of Subjects in 7 CFR Part 205**

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is proposed to be amended as follows:

**PART 205—NATIONAL ORGANIC PROGRAM**

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

**Authority:** 7 U.S.C. 6501–6522.

■ 2. Section 205.601 is amended by revising paragraphs (a)(6) and (i)(8) to read as follows:

**§ 205.601 Synthetic substances allowed for use in organic crop production.**

\* \* \* \* \*

(a) \* \* \*

(6) Peracetic acid—for use in disinfecting equipment, seed, and asexually propagated planting material. Permitted in hydrogen peroxide formulations at concentration of no more than 5% as indicated on the pesticide product label.

\* \* \* \* \*

(i) \* \* \*

(8) Peracetic acid—for use to control fire blight bacteria. Permitted in hydrogen peroxide formulations at concentration of no more than 5% as indicated on the pesticide product label.

\* \* \* \* \*

■ 3. In § 205.605 paragraph (b), revise the entry for “Potassium hydroxide” and “Silicon dioxide” to read as follows:

**§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”**

\* \* \* \* \*

(b) \* \* \*

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches.

\* \* \* \* \*

Silicon dioxide—Permitted as a defoamer. Allowed for other uses when organic rice hulls are not commercially available.

\* \* \* \* \*

■ 4. Section 205.606 is amended by:  
 ■ A. Removing paragraph (d)(1);  
 ■ B. Redesignating (d)(2) through (d)(19) as (d)(1) through (d)(18); and  
 ■ C. Revising paragraph (d)(2) to read as follows:

**§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as “organic.”**

\* \* \* \* \*

(d) \* \* \*

(2) Beta-carotene extract color—derived from carrots or algae (pigment CAS# 7235–40–7).

\* \* \* \* \*

Dated: January 30, 2013.

**Rex A. Barnes,**  
*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2013–02398 Filed 2–4–13; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 959**

[Doc. No. AMS–FV–12–0039; FV12–959–1 PR]

**Onions Grown in South Texas; Increased Assessment Rate**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the South Texas Onion Committee (Committee) for the 2012–13 and subsequent fiscal periods from \$0.025 to \$0.03 per 50-pound equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Assessments upon onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by February 15, 2013.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: <http://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at:

<http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:**

Doris Jamieson, Marketing Specialist or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or Email: [Doris.Jamieson@ams.usda.gov](mailto:Doris.Jamieson@ams.usda.gov) or [Christian.Nissen@ams.usda.gov](mailto:Christian.Nissen@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 959, as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable onions beginning on August 1, 2012, and continue until amended, suspended, or terminated.

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 USDA 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA 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 his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2012-13 and subsequent fiscal periods from \$0.025 to \$0.03 per 50-pound equivalent of onions.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009-10 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 26, 2012, and unanimously recommended 2012-13 expenditures of \$145,467 and an assessment rate of \$0.03 per 50-pound equivalent of onions. In comparison, last year's budgeted expenditures were \$190,467. The assessment rate of \$0.03 is \$0.005 higher than the rate currently in effect. The Committee's 2012-13 crop estimate of five million 50-pound equivalents is lower than the six million estimated for last year, and would not generate adequate assessment income to cover budgeted expenses at the \$0.025 rate. With the recommended \$0.005 increase, assessment income should approximate \$150,000. The increased assessment rate should provide sufficient funds to cover anticipated 2012-13 expenses.

The major expenditures recommended by the Committee for the 2012-13 fiscal period include \$46,610 for compliance, \$37,050 for administrative, and \$32,942 for management. Budgeted expenses for these items were the same in 2011-12.

The reduction in overall budgeted expenses from \$190,467 to \$145,467 is due to the elimination of market development programs.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at five million 50-pound equivalents which should provide \$150,000 in assessment income. Income derived from handler assessments, along with interest income, would be adequate to cover budgeted expenses. Funds in the reserve (currently \$107,162) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses as authorized in § 959.43).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2012-13 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 the rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf.

There are approximately 85 producers of onions in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistical Service (NASS), the average price for South Texas onions during the 2010–11 season was around \$7.35 per 50-pound equivalents and total shipments were approximately 5.4 million 50-pound equivalents. Using the average price and shipment information and assuming a normal distribution, the majority of South Texas onion producers would have annual receipts of less than \$750,000. In addition, based on available information, approximately 80 percent South Texas onion handlers could be considered small businesses under SBA's definition. Thus, the majority of South Texas onion producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2012–13 and subsequent fiscal periods from \$0.025 to \$0.03 per 50-pound equivalent of onions. The Committee unanimously recommended 2012–13 expenditures of \$145,467 and an assessment rate of \$0.03 per 50-pound equivalent. The proposed assessment rate of \$0.03 is \$0.005 higher than the 2011–12 rate. The quantity of assessable onions for the 2012–13 fiscal year is estimated at five million 50-pound equivalents, compared to an estimated six million 50-pound equivalents last year. The current assessment rate of \$0.025 would not generate sufficient revenue to meet expenses, however the \$0.03 rate should provide \$150,000 in assessment income and be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2012–13 fiscal period include \$46,610 for compliance, \$37,050 for administrative, and \$32,942 for management. Budgeted expenses for these items were the same in 2011–12. The reduction in overall budgeted expenses from \$190,467 to \$145,467 is due to the elimination of market development programs.

Prior to arriving at this budget, the Committee considered information from

various sources, such as the Committee's Budget and Personnel Committee and the Marketing Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various promotional projects to the South Texas onion industry. The assessment rate of \$0.03 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at five million 50-pound equivalents for the 2012–13 fiscal period. Assessment income should approximate \$150,000, \$5,333 above anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2012–13 fiscal period could range between \$6.60 and \$9.80 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2012–13 fiscal period as a percentage of total grower revenue could range between .3 and .45 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 26, 2012, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping

requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: [www.ams.usda.gov/MarketingOrdersSmallBusinessGuide](http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide). Any questions about the compliance guide should be sent to Laurel May at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2012–13 fiscal period began on August 1, 2012, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

■ 1. The authority citation for 7 CFR part 959 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 959.237 is revised to read as follows:

#### § 959.237 Assessment rate.

On and after August 1, 2012, an assessment rate of \$0.03 per 50-pound equivalent is established for South Texas onions.

Dated: January 30, 2013.

**David R. Shipman,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2013-02400 Filed 2-4-13; 8:45 am]

BILLING CODE 3410-02-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 72

[Docket No. PRM-72-7; NRC-2012-0266]

#### Spent Fuel Cask Certificate of Compliance Format and Content

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; receipt and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt for a petition for rulemaking (PRM), dated October 3, 2012, which was filed with the NRC by Anthony R. Pietrangolo on behalf of the Nuclear Energy Institute (NEI or the petitioner). The petition was docketed by the NRC on October 18, 2012, and assigned Docket No. PRM-72-7. The petitioner requests that the NRC add a new rule that governs the format and content of spent fuel storage cask Certificates of Compliance (CoCs), extend the backfit rule to CoCs, and make other improvements that result in “more efficient and effective NRC oversight of dry cask storage activities as well as improved implementation of dry cask storage requirements by industry.”

**DATES:** Submit comments by April 22, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may access information and comment submissions related to this petition for rulemaking, which the NRC possesses and are publicly available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0266. You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0266. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you

do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-492-3667; email: [Cindy.Bladey@nrc.gov](mailto:Cindy.Bladey@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Accessing Information and Submitting Comments

###### A. Accessing Information

Please refer to Docket ID NRC-2012-0266 when contacting the NRC about the availability of information for this petition for rulemaking. You may access information related to this petition for rulemaking, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0266.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The incoming petition is in ADAMS under Accession No. ML12299A380.

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

##### B. Submitting Comments

Please include Docket ID NRC-2012-0266 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

##### II. The Petitioner

The NEI is the policy organization for the nuclear energy and technologies industry. The NEI’s petition states that its “members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, and other organizations and entities involved in the nuclear energy industry.” These include CoC “holders, and licensees—under both the specific and general license provisions—regulated by the NRC through 10 CFR part 72 [part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR)].” The petitioner states that its primary interest in submitting this petition is that it “is responsible for coordinating the combined efforts of licensees and CoC holders on matters involving generic NRC regulatory policy issues, and generic operations and technical regulatory issues affecting the activities of NRC-licensed independent spent fuel storage installations (ISFSIs) and NRC-certified dry storage cask designs.”

##### III. The Petition

In its petition (ADAMS Accession No. ML12299A380), the petitioner requests that the NRC initiate a rulemaking to amend 10 CFR part 72. The petitioner requests that the NRC regulations be amended as follows: