

periods from \$6.25 to \$8.41 per ton for “summer/fall” pears for canning. The PPC also unanimously recommended 2009–2010 expenditures of \$1,029,554. With a 2009–2010 crop of “summer/fall” pears for canning estimate of 121,000 tons in Oregon and Washington, the PPC anticipates assessment income of about \$1,017,610. The PPC recommended the higher assessment rate to increase the funding for promotional activities.

The major expenditures recommended by the PPC for the 2009–2010 fiscal period include \$860,310 for promotion and paid advertising, \$130,944 for research, \$24,200 for administration, \$13,100 for PPC expenses, and \$1,000 for contingency. In comparison, major expenditures for the 2008–09 fiscal period included \$700,000 for promotion and paid advertising, \$140,106 for research, \$28,000 for administration, \$13,500 for PPC expenses, and \$1,000 for contingency.

The PPC discussed alternatives to this recommended assessment increase. The PPC reviewed a “critical issue analysis” of the key components of the PPC’s promotion program and discussed individual promotional activities. Leaving the assessment rate at the current \$6.25 per ton would have cut core promotional activities. A \$0.05 increase to \$6.30 per ton would not be sufficient and would limit promotional activities. The assessment rate of \$8.41 per ton for “summer/fall” pears for canning enables the PPC to achieve the key components of the PPC’s promotion program.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2009–2010 season could average about \$250 per ton for “summer/fall” pears for canning. Therefore, the estimated assessment revenue for the 2009–2010 fiscal period as a percentage of total grower revenue is 3.364 percent for Oregon and Washington “summer/fall” pears for canning.

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 growers. However, these costs would be offset by the benefits derived by the operation of the order.

In addition, the PPC’s meeting was widely publicized throughout the Oregon and Washington pear industry and all interested persons were invited to attend and participate in PPC

deliberations on all issues. Like all PPC meetings, the May 28, 2009 meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Oregon and Washington pear 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. Additionally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this 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.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and order may be viewed at: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2009–2010 fiscal period will begin on July 1, 2009, and the order requires that the assessment rate for each fiscal period apply to all pears for canning handled during such fiscal period; (2) the Oregon and Washington pear harvest and shipping season is expected to begin in mid-August; (3) the PPC needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (4) handlers are aware of this action, which was recommended by the PPC at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

## PART 927—PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In § 927.237, the introductory text and paragraph (a) are revised to read as follows:

### § 924.237 Processed pear assessment rate.

On or after July 1, 2009, the following base rates of assessment for pears for processing are established for the Processed Pear Committee:

(a) \$8.41 per ton for any or all varieties or subvarieties of pears for canning classified as “summer/fall” excluding pears for other methods of processing;

\* \* \* \* \*

Dated: August 20, 2009.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E9–20515 Filed 8–25–09; 8:45 am]

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1119

#### Civil Penalty Factors; Withdrawal of Proposed Rule

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** In the **Federal Register** of July 12, 2006, the Consumer Product Safety Commission (“CPSC” or “Commission”) issued a proposed rule that would identify and explain related factors, other than those specified by statute, which the Commission may consider in evaluating the appropriateness and amount of a civil penalty under the Consumer Product Safety Act (“CPSA”). The Consumer Product Safety Improvement Act of 2008 (“CPSIA”), Public Law 110–314, 122 Stat. 3016, supersedes the proposed rule by amending the CPSA, the Federal Hazardous Substances Act (“FHSA”), and the Flammable Fabrics Act (“FFA”) to require the Commission to consider additional factors and to issue a rule providing its interpretation of all statutory factors pertaining to civil penalties. Consequently, the Commission is withdrawing the July 12, 2006 proposed rule.

**DATES:** The proposed rule is withdrawn as of August 26, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Melissa V. Hampshire, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504-7631, e-mail [mhampshire@cpsc.gov](mailto:mhampshire@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of July 12, 2006 (71 FR 39248), the CPSC proposed to amend its regulations to add a new part, 16 CFR 1119, titled “Civil Penalty Factors.” The proposed rule would describe the factors the Commission may consider in determining the appropriateness and amount of a civil penalty for violations of section 19(a) of the CPSA, which includes the failure to furnish information required by section 15(b) of the CPSA.

The proposal was intended to provide further clarity and transparency in how the CPSC determines civil penalty amounts. The Commission believed that the proposed rule would result in a better understanding by the public of the Commission’s approach to determining the appropriateness and amount of a civil penalty.

The Commission received four comments in response to the proposed rule. The CPSIA was subsequently enacted, and section 217 of the CPSIA revised certain sections of the CPSA, the FHSA, and the Flammable Fabrics Act. In general, section 217 of the CPSIA increased the maximum civil penalty amounts, described new factors for the CPSC to consider when determining civil penalty amounts, and instructed the CPSC to issue a final rule to interpret the “penalty factors described in section 20(b) of the [CPSA] section 5(c)(3) of the [FHSA] and section 5(e)(2) of the [FFA] as amended by subsection (a) [of the CPSIA].”

Section 217 of the CPSIA, therefore, effectively superseded the July 12, 2006 proposed rule by adding new factors for consideration and directing the Commission to issue a final rule providing its interpretation of all the factors in section 20(b) of the CPSA, section 5(c)(3) of the FHSA, and section 5(e)(2) of the FFA. Consequently, the Commission, through this notice, is withdrawing the July 12, 2006 proposal.

Elsewhere in this issue of the **Federal Register**, the Commission is issuing a new interim final rule to interpret the penalty factors pursuant to section 217 of the CPSIA.

Dated: August 19, 2009.

**Alberta E. Mills,**

*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc. E9-20590 Filed 8-25-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2009-0558; FRL-8949-4]

**Revisions to the Arizona State PM-10 Implementation Plan; Maricopa County Air Quality Department**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from non-metallic mineral mining and processing in the Maricopa County (Phoenix) serious PM-10 nonattainment area. We are proposing to approve a local rule that regulates these emission sources under the Clean Air Act, as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by *September 25, 2009*.

**ADDRESSES:** Submit comments, identified by docket number [EPA-R09-OAR-2009-0558], by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected

should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Sona Chilingaryan, EPA Region IX, (415) 972-3368, [chilingaryan.sona@epa.gov](mailto:chilingaryan.sona@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. The State’s Submittal**

*A. What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates on which it was adopted by the local air agency and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
MCAQD .....	316	Nonmetallic Mineral Processing .....	3/10/08	7/10/08