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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 adding paragraph (o) to read as follows:

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

\* \* \* \* \*

(o) As production aids.

Microcrystalline cheesewax (CAS #'s 64742–42–3, 8009–03–08, and 8002–74–2)—for use in log grown mushroom culture. Must be made without either ethylene-propylene co-polymer or synthetic colors.

\* \* \* \* \*

3. Section 205.605, paragraph (b), is amended by:

A. Removing “Lecithin—bleached.”; and

B. Adding one new substance to paragraph (b) 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) \* \* \*

Acidified sodium chlorite—Secondary direct antimicrobial food treatment and indirect food contact surface sanitizing. Acidified with citric acid only.

\* \* \* \* \*

4. Section 205.606 is amended by:

A. Revising paragraph (p); B. Redesignating paragraphs (r) through (t) and paragraphs (u) through (y) as paragraphs (s) through (u) and (w) through (aa) respectively; and

C. Adding new paragraphs (r) and (v) to read as follows:

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

\* \* \* \* \*

(p) Lecithin—de-oiled.

\* \* \* \* \*

(r) Orange pulp, dried.

\* \* \* \* \*

(v) Seaweed, Pacific kombu.

\* \* \* \* \*

Dated: November 2, 2010.

David R. Shipman,

Acting Administrator.

[FR Doc. 2010–28042 Filed 11–5–10; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Doc. No. AMS–FV–10–0053; FV10–924–1 PR]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Termination of Marketing Order 924

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the proposed termination of the Federal marketing order regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, and the rules and regulations issued thereunder. Marketing Order No. 924 is administered locally by the Washington-Oregon Fresh Prune Marketing Committee (Committee), which unanimously recommended termination of the marketing order at a meeting held on June 1, 2010. This recommendation is based on the Committee’s determination that this order is no longer an effective marketing tool for the fresh prune industry, and that termination would best serve the current needs of the industry while also eliminating the costs associated with the operation of the marketing order.

DATES: Comments must be received by January 7, 2011.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: http://www.regulations.gov. All comments should reference the document 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, 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:

Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721, Telephone: (559) 487–5110, Fax: (559) 487–5906, or E-mail: Martin.Engeler@ams.usda.gov; or Robert Curry, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, Oregon 97068, Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail: Robert.Curry@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is governed by § 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 § 924.64 of Marketing Agreement and Order No. 924, both as amended (7 CFR part 924), effective under the Act and hereinafter referred to as the “order”.

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

This proposal to terminate the order has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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. A 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 proposes to terminate the order and the rules and regulations issued thereunder. The order contains authority for regulation of the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. At a meeting held in Prosser, Washington, on June 1, 2010, the Committee unanimously recommended termination of the order.

Section 924.64 of the order provides, in pertinent part, that USDA terminate or suspend any or all provisions of the order when a finding is made that the order does not tend to effectuate the declared policy of the Act. In addition, section 608c(16)(A) of the Act provides that USDA terminate or suspend the operation of any order whenever the order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act. Additionally, USDA is required to notify Congress not later than 60 days before the date the order would be terminated.

The order has been in effect since 1960 and has provided the fresh prune industry in Washington and Oregon with authority for grade, size, quality, maturity, pack, and container regulations, as well as the authority for mandatory inspection. The order also authorizes production research and marketing research and development projects, as well as the necessary reporting, recordkeeping, and assessment functions required for operation.

Based on the Committee's recommendation, USDA suspended the order's handling regulations on May 9, 2006 (71 FR 26817). The suspended handling regulations (§ 924.319) consist of minimum quality requirements for certain fresh prunes produced within the regulated production area. When the Committee made the recommendation to suspend the handling regulations, the industry believed that the costs of inspection outweighed the benefits of having the regulatory requirements in effect. The Committee decided to

evaluate the marketing conditions annually thereafter to determine whether to continue the regulatory suspension, reinstate handling regulations, or take some other action. The only regulatory provisions in effect since 2006 have been collection of assessments to maintain the functionality of the Committee, and a reporting provision that provides a basis for assessment collection.

After four years of evaluating the effects of operating without the quality regulations, the Committee has determined that the suspension of the regulations has not negatively impacted the marketing of fresh Washington-Oregon prunes. Analysis of the marketing conditions over the past four years, as well as an analysis of statistics showing that the fresh prune industry has been in steady decline over the past several decades, led the Committee to conclude that the order is no longer an effective marketing tool for the fresh prune industry, and that termination would be the best means of relieving the industry of the costs and burdens associated with the order.

Evidence supporting the conclusion that the industry has been decreasing in scope and volume include statistics showing that the Washington-Oregon fresh prune industry has fewer producers and handlers today than there were when the order was promulgated, and that acreage and production has significantly declined as well. For example, USDA Marketing Order Administration Branch records from an amendatory referendum indicate that there were approximately 720 producers of fresh prunes in the order's production area in 1974, while the most recent information received from the Committee indicates that there are now only 56 currently active producers. Furthermore, Committee records indicate that there were 51 handlers in 1961—the year after the order was promulgated—as opposed to the six currently operating handlers. Committee records also indicate that 12,120 tons of fresh prunes were shipped in 1961 as compared to the 4,260 tons shipped in 2009. Finally, data provided by the USDA National Agricultural Statistics Service (NASS) indicates that prune acreage in Washington and Oregon has declined in the past 50 years by about 80 percent.

This proposed termination of the order is intended to solicit input and any additional information available from interested parties regarding whether the order should be terminated. USDA will evaluate all available information prior to making a final determination on this matter.

Termination of the order would become effective only after a 60-day notification to Congress as required by law.

#### Initial Regulatory Flexibility Analysis

Pursuant to the 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 six handlers of Washington-Oregon fresh prunes subject to regulation under the order and approximately 56 fresh prune producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

Based on information compiled by both the Committee and NASS, the average producer price for fresh prunes in 2009 was approximately \$385 per ton. With 4,260 tons of fresh prunes shipped from the Washington and Oregon production areas in 2009, this equates to average producer revenue of about \$30,000. In addition, AMS Market News Service reported that 2009 f.o.b. prices ranged from \$12.00 to \$18.00 per 30-pound container, indicating that the entire Washington-Oregon fresh prune industry handled less than \$7,000,000 worth of prunes last season. In view of the foregoing, the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule proposes to terminate the Federal marketing order for fresh prunes grown in Washington and Oregon, and the rules and regulations issued thereunder. The order contains authority to regulate the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. The Committee has determined that the order no longer provides the fresh prune industry with an effective marketing tool since evidence shows that prunes can be shipped absent the order's quality

regulations without negative impact, and that the costs associated with the order outweigh the benefits. The Committee also believes that the overall decline in the scope and volume of the fresh prune industry in Washington and Oregon supports order termination. As a consequence, in action taken on June 1, 2010, the Committee unanimously recommended that USDA terminate the order.

Section 924.64 of the order provides that USDA terminate or suspend any or all provisions of the order when a finding is made that the order does not tend to effectuate the declared policy of the Act. Furthermore, § 608c(16)(A) of the Act provides that USDA shall terminate or suspend the operation of any order whenever the order or provision thereof obstructs or does not tend to effectuate the declared policy of the Act. An additional provision requires that Congress be notified not later than 60 days before the date the order would be terminated.

The proposed termination of the order is a regulatory relaxation and would consequently reduce the costs to both handlers and producers (while marketing order requirements are applied to handlers, the costs of such requirements are often passed on to producers). Furthermore, the Committee has determined, through its analysis of the four year period of regulatory suspension, that termination would not negatively impact the marketing of fresh prunes. The Committee considered alternatives to this rule including leaving the order active but continuing with regulatory suspension, and suspending the order rather than terminating it. Interest was not shown for either option, however, and the Committee subsequently recommended that the order be terminated.

This proposed rule is intended to solicit input and other available information from interested parties on whether the order should be terminated. USDA will evaluate all available information prior to making a final determination on this matter.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the information collection requirements being suspended were approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0189, Fruit Crops. Termination of the reporting requirements under the order is expected to reduce the reporting burden on Washington-Oregon prune handlers by 2.92 hours, and should further reduce industry expenses. Handlers are no longer required to file forms with the Committee. This proposed rule would

thus not impose any additional reporting or recordkeeping requirements on either small or large prune 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.

In addition, 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.

The Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the June 1, 2010, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Additionally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on the proposed termination of Marketing Order 924, which regulates the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. All written comments received in a timely manner will be considered before a final determination is made on this matter.

Based on the foregoing, and pursuant to § 608c(16)(A) of the Act and § 924.64 of the order, USDA is considering termination of the order. If USDA decides to terminate the order, trustees would be appointed to conclude and liquidate the affairs of the Committee, and would continue in that capacity until discharged by USDA. In addition, USDA would notify Congress 60 days in advance of termination pursuant to § 608c(16)(A) of the Act.

#### List of Subjects in 7 CFR Part 924

Prunes, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON—[REMOVED]

For the reasons set forth in the preamble, under the authority of 7 U.S.C. 601–674, 7 CFR part 924 is proposed to be removed.

Dated: November 2, 2010.

David R. Shipman,

Acting Administrator.

[FR Doc. 2010-28046 Filed 11-5-10; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 1214

[Document No. AMS-FV-10-0008-PR-1A]

RIN 0581-AD00

#### Proposed Christmas Tree Promotion, Research, and Information Order

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** This proposed rule invites comments on the establishment of an industry-funded promotion, research, and information program for fresh cut Christmas trees. The proposed Christmas Tree Promotion, Research, and Information Order (Proposed Order), was submitted to the Department of Agriculture (Department) by the Christmas Tree Checkoff Task Force, an industry wide group of producers and importers that support this proposed program. Under the Proposed Order, producers and importers of fresh cut Christmas trees would pay an initial assessment of \$0.15 per tree, which would be paid to the proposed Christmas Tree Promotion Board (Board). This Board would be responsible for administration and operation of the proposed Order. Producers and importers that domestically produce or import less than 500 Christmas trees annually would be exempt from the assessment. The proposed program is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act). A referendum will be conducted, among producers and importers, three years after the