

cherries. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting grower a grower diversion certificate which such grower may deliver to a handler. Any grower diversions completed in accordance with this section, but which are undertaken in districts subsequently exempted by the Board from volume regulation under § 930.52(d), shall qualify for diversion credit.

\* \* \* \* \*

Proposal submitted by USDA:

### Proposal Number 2

Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: March 4, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011-5717 Filed 3-11-11; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1206

[Doc No. AMS-FV-10-0092]

#### Mango Promotion, Research, and Information Order; Reapportionment

**AGENCY:** Agricultural Marketing Service.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to adjust the number of members on the National Mango Board (Board) from 20 to 18 to reflect the elimination of two non-voting wholesaler/retailer positions. In accordance with the Mango Promotion, Research, and Information Order (Order), which is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act), a review of the composition of the Board must be conducted every five years. The Board has reviewed the production volumes and geographical distribution of domestic and imported mangos, and submitted this information to the U.S. Department of Agriculture with a recommendation that no changes be made to the number of importer, first handler, or producer seats on the Board. However, the Board recommends elimination of two non-voting wholesaler/retailer positions that have not been filled since 2007.

**DATES:** Comments must be received by April 13, 2011.

**ADDRESSES:** Comments may be submitted electronically at <http://www.regulations.gov>. Comments may also be sent to the Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Room 0632-S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250-0244; *fax:* 202-205-2800. All comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments will be made available for public inspection in the above office during regular business hours, or may be viewed at <http://www.regulations.gov>. All comments submitted in response to this proposed 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 comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:**

Veronica Douglass, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, Room 0632-S, 1400 Independence Avenue, SW., Washington, DC 20250-0244; *telephone:* 888-720-9917; *fax:* 202-205-2800; or *e-mail:* [veronica.douglass@ams.usda.gov](mailto:veronica.douglass@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Mango Promotion, Research, and Consumer Information Order (Order) [7 CFR part 1206]. The Order is authorized by the Commodity Promotion, Research, and Information Act of 1996 (Act) [7 U.S.C. 7411-7425].

#### Executive Order 12866

The Office of Management and Budget (OMB) 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. It is not intended to have a retroactive effect.

Section 524 of the Act provides that the Act shall not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

Under the Act, a person subject to an order may file a petition with the U.S. Department of Agriculture (Department) stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and requesting a modification of an order or an exemption from an order. Any petition filed challenging an order,

any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Department will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Department's final ruling.

#### Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this rule on small entities that would be affected by this rule. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action, so that small businesses will not be disproportionately burdened.

The Small Business Administration defines small agricultural producers as those having annual receipts of no more than \$750,000, and small agricultural service firms as those having annual receipts of no more than \$7 million (13 CFR part 121). First handlers, importers, wholesalers, and retailers would be considered agricultural service firms. Currently, fewer than five first handlers and 193 importers are subject to assessment under the Order. The majority of producers would be considered small businesses. The majority of these first handlers and importers would be considered small businesses, while wholesalers and retailers would not.

First handlers and importers who market or import less than 500,000 pounds of mangos annually are exempt from the assessment. Mangos that are exported out of the United States are also exempt from assessment. In addition, domestic producers, foreign producers, wholesalers, and retailers are not subject to assessment under the Order, but such individuals are eligible to serve on the Board along with importers and first handlers.

Section 1206.30 (c) of the Order requires that the Board review the volume and geographical distribution of mango production and imports at least once every five years. If warranted, the Board will recommend to the Department that membership on the Board be altered to reflect any changes

in the volume and geographical distribution of mango production and imports.

The Order currently provides for a Board of 20 members including eight importers, one first handler, two domestic producers, seven foreign producers, and two non-voting wholesalers and/or retailers. At its November 16, 2010 meeting, the Board reviewed the volume and geographic distribution of mango production and imports from 2006 through 2009. Based on U.S. Customs data, the volume of mango imports to the U.S. declined from 666,772,761 pounds in 2006 to 627,271,605 pounds in 2009. The Board's eight importer seats are allocated based on the volume of mangos imported into each of the four Districts defined in the Order. The current allocation is two seats for District I, three seats for District II, two seats for District III, and one seat for District IV. The percentage of the total mango import volume imported into District I remained at 25 percent from 2006 to 2009. Imports into District II grew from 35 percent of the total in 2006 to 41 percent in 2009. Imports into District III fell from 28 percent of the total in 2006 to 23 percent in 2009. Imports into District IV fell from 12 percent of the total in 2006 to 11 percent in 2009. Much of the domestic mango production was adversely affected by Hurricanes during the early 2000s. Accordingly, data provided by the Board shows that in 2006, no assessments were collected on domestic mangos, while in 2009 assessments were collected on 1,539,306 pounds of domestic mangos. After reviewing the data regarding mango imports and domestic production, the Board voted to recommend that no changes be made at this time to the number of importer, first handler, domestic producer, or foreign producer seats; or to the allocation of importer seats among the four districts.

At the same meeting, the board voted to request elimination of the wholesaler/retailer positions from the Order. These positions were included so that the board would include members with direct customer sales experience. The Board has made numerous attempts to nominate individuals to those positions; however, wholesalers and retailers are not interested in or do not have the time to serve on the Board. As a result, the two wholesaler/retailer positions have been vacant since 2008. These two positions do not represent assessment payers. If the wholesaler/retailer positions are eliminated, the Board would consist of a total of 18 members including eight importers, one first

handler, two domestic producers, and seven foreign producers.

Nominations and appointments to the Board are conducted pursuant to sections 1206.31 and 1206.33 of the Order. Appointments to the Board are made by the Secretary from a slate of nominated candidates. Pursuant to section 1206.31 of the Order, candidates for the importer, first handler, and domestic producer positions are nominated by their peers. Nominations for the foreign producer positions are solicited from foreign mango producer organizations. The Board nominates the wholesaler/retailer members. The Order requires that two nominees be submitted for each vacant position.

In accordance with OMB regulation [5 CFR part 1320], which implements information collection requirements imposed by the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], there are no new requirements contained in this rule. In fact a decrease of .33 hours in the information collection burden for the mango program is expected. The information collection requirements have been previously approved by OMB under OMB control number 0581-0093.

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

#### Background

The Order, which became effective November 3, 2004, is authorized under the Act and administered by the Board. The Order provides for a 20-member Board consisting of eight importers, one first handler, two domestic producers, seven foreign producers, and two non-voting wholesalers and/or retailers.

Under the Order, the Board administers a nationally coordinated program of promotion, research, and information designed to strengthen the position of mangos in the marketplace and to develop, maintain, and expand the demand for mangos in the United States. The program is financed by an assessment of 1/2 cent per pound on first handlers and importers who market or import 500,000 pounds or more of mangos annually. Under the Order, first handlers remit assessments directly to the Board, and assessments paid by importers are collected and remitted by the United States Customs Service.

Pursuant to section 1206.30(c) of the Order, at least once in each five-year period, the Board shall review the volume and geographical distribution of mango production and imports and, if warranted, make a recommendation to the Secretary to alter the Board's membership. On November 16, 2010, at

its fall meeting, the Board voted to recommend that no changes be made to the importer, first handler, domestic producer, or foreign producer positions, but that the non-voting wholesaler/retailer positions be eliminated. If the wholesaler/retailer positions are eliminated, the Board's membership would be reduced from 20 to 18.

Accordingly, the proposed rule would delete the definition of retailer in section 1206.19 and wholesaler in section 1206.24 and references to wholesalers in sections 1206.31 and 1206.32.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate so that the proposed amendments, if adopted, may be implemented before the Board's 2012 term of office, which begins on January 1, 2012. All written comments received in response to this rule by the date specified will be considered prior to finalizing this action.

#### List of Subjects in 7 CFR Part 1206

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mango Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1206 is proposed to be amended as follows:

#### PART 1206—MANGO PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1206 continues to read as follows:

**Authority:** 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

#### § 1206.19 [Reserved]

2. Remove and reserve § 1206.19.

#### § 1206.24 [Reserved]

3. Remove and reserve § 1206.24.

4. Amend § 1206.30 by revising paragraph (a) to read as follows:

#### § 1206.30 Establishment of the National Mango Promotion Board.

(a) *Establishment of the National Mango Promotion Board.* There is hereby established a National Mango Promotion Board composed of eight importers, one first handler, two domestic producers, and seven foreign producers. The chairperson shall reside in the United States and the Board office shall also be located in the United States.

\* \* \* \* \*

**§ 1206.31 [Amended]**

5. Amend § 1206.31 by removing paragraph (h), and redesignating paragraph (i) as paragraph (h).

6. Revise § 1206.32 to read as follows:

**§ 1206.32 Term of office.**

The term of office for first handler, importer, domestic producer, and foreign producer members of the Board will be three years, and these members may serve a maximum of two consecutive three-year terms. When the Board is first established, the first handler, two importers, one domestic producer, and two foreign producers will be assigned initial terms of four years; three importers, one domestic producer, and two foreign producers will be assigned initial terms of three years; and three importers and three foreign producers will be assigned initial terms of two years. Thereafter, each of these positions will carry a full three-year term. Members serving initial terms of two or four years will be eligible to serve a second term of three years. Each term of office will end on December 31, with new terms of office beginning on January 1.

Dated: March 4, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011-5715 Filed 3-11-11; 8:45 am]

BILLING CODE 3410-02-P

**SMALL BUSINESS ADMINISTRATION****13 CFR Chapter 1**

[Docket No.: SBA-2011-0012]

**Reducing Regulatory Burden; Retrospective Review Under Executive Order 13563**

**AGENCY:** U.S. Small Business Administration

**ACTION:** Request for information.

**SUMMARY:** As part of its implementation of Executive Order 13563, "Improving Regulation and Regulatory Review," the Small Business Administration (SBA) is seeking comments and information from interested parties to assist the agency in reviewing its existing regulations to determine whether they should be streamlined, expanded, or withdrawn. The primary objectives of this review are to make SBA's regulatory program more cost effective and less burdensome on participants in the Agency's programs while continuing to promote economic growth, innovation, and job creation. SBA seeks public input on the design of a plan to use for periodic

retrospective review of its regulations and an initial list of the rules to be reviewed under the plan.

**DATES:** Comments are requested on or before April 13, 2011.

**ADDRESSES:** You may submit comments, identified by Docket Number SBA-2011-0012 using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Identify comments by "Docket Number SBA-2011-0012, Regulatory Burden RFI," and follow the instructions for submitting comments.

*Mail:* U.S. Small Business Administration, Office of the General Counsel, 409 Third Street, SW., Washington, DC 20416.

SBA will post comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Martin S. Conrey, Assistant General Counsel for Legislation and Appropriations, Office of General Counsel, 409 Third Street, SW., Washington, DC 20416. Highlight the information that you consider to be CBI, and explain why you believe this information should be held confidential. SBA will review the information and make the final determination of whether it will publish the information or not.

**FOR FURTHER INFORMATION CONTACT:** Martin S. Conrey, Assistant General Counsel for Legislation and Appropriations, Office of the General Counsel, 409 Third Street, SW., Washington, DC 20416; telephone number: 202-619-0638; fax number: 202-205-6846; e-mail address: [martin.conrey@sba.gov](mailto:martin.conrey@sba.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information**

The mission of the Small Business Administration is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses, and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA has developed a regulatory policy that is implemented primarily through several core program offices: Office of Capital Access, Office of Disaster Assistance, Office of Entrepreneurial Development, Office of Government Contracting and Business Development, Office of International Trade, and Office of Investment and Innovation. SBA's regulations are codified at Title 13 Code of Federal Regulations, Chapter I, and consist of Parts 100 through 147.

**II. Executive Order 13563**

On January 18, 2011, the President issued Executive Order 13563, "Improving Regulation and Regulatory Review," that requires Federal agencies to seek more affordable, less intrusive means to achieve policy goals, and to give careful consideration to the benefits and costs of their regulations. The Executive Order also requires agencies to review existing rules to remove outdated regulations that stifle job creation and make the U.S. economy less competitive. Agencies are directed to develop a preliminary plan under which they will periodically review existing regulations to determine which should be maintained, modified, strengthened, or withdrawn in order to increase their effectiveness and decrease the burdens of the agency's regulatory program.

**III. Retrospective Review Plan**

In compliance with the executive order, SBA seeks help in designing the plan it will use for the periodic review of its existing regulations and an initial list of candidate rules for review. The Agency's goal is to create a systematic method for identifying those significant rules that are obsolete, unnecessary, unjustified, or counterproductive. The public is first asked to comment on how SBA should devise its preliminary plan, with a defined method and schedule, for identifying certain significant rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. It would be helpful for comments to address how SBA could best evaluate and analyze regulations in order to expand on those that work and to modify, improve, or rescind those that do not. Comments might address how SBA can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations and whether there are existing sources of data that SBA can use to evaluate the post-promulgation effects of regulations over time. SBA is particularly interested in the public's views about how well its current processes for reviewing regulations function and how those processes might be expanded or otherwise adapted to meet the objectives of Executive Order 13563. SBA is also interested in comments about factors that we should consider in setting priorities and selecting rules for review.

SBA intends for its preliminary plan to include an initial list of candidate rules to review. SBA solicits suggestions for specific rules that should be on the list. In suggesting rules for review,