

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1245**

[Document Number AMS-FV-07-0091;
FV-07-706-FR]

RIN 0581-AC78

**U.S. Honey Producer Research,
Promotion, and Consumer Information
Order; Termination of Referendum
Procedures**

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Direct final rule.

SUMMARY: The Agriculture Marketing Service (AMS) is removing from the Code of Federal Regulations (CFR) referendum procedures for the proposed U.S. Honey Producer Research, Promotion, and Consumer Information Order (Proposed Order). The Proposed Order was not approved during referendum and thus was not implemented. Therefore, referendum procedures for this Proposed Order are no longer necessary and the part is removed in its entirety.

DATES: *Effective Date:* The rule will be effective on May 16, 2011, without further action, unless adverse comments or written notice of intent to submit adverse comments are received on or before April 15, 2011. If adverse comments or written notice of intent to submit adverse comments are received, AMS will publish a document in the **Federal Register** withdrawing this rule before the effective date.

ADDRESSES: You may submit comments or written notice of intent to submit adverse comments on the Internet at <http://www.regulations.gov> or to the Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Room 0632-S, Washington, DC 20250-0244; fax: (202) 205-2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office 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 comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Research and Promotion Branch, Fruit

and Vegetable Programs, AMS, USDA, Stop 0244, Room 0634-S, 1400 Independence Ave, SW., Washington, DC 20250-0244; telephone (202) 720-9915 or (888)720-9917 (toll free), Fax: (202) 205-2800 or e-mail kimberly.coy@ams.usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Proposed Order was authorized by the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411-7425). The Proposed Order was published in the **Federal Register** on July 14, 2009 [74 FR 34182] with request for comments, and then again on April 12, 2010 [75 FR 18430] to announce a referendum. The Department conducted an initial referendum from May 17, 2010 through June 4, 2010 to ascertain whether the persons to be covered by and assessed under the Proposed Order favored the Order prior to it going into effect. To be eligible to vote, producers must have produced 100,000 or more pounds of honey from January 1, 2008 through December 31, 2008. The Proposed Order would have been implemented if approved by a majority of the producers voting in the referendum, which also represented a majority of the volume of U.S. honey produced during the representative period by those voting in the referendum. In the referendum, 41 percent of those who voted—representing 52 percent of the voted volume of U.S. honey—favored implementation of the Order. Therefore, the Proposed Order failed by vote. Accordingly based upon the referendum results, a rule withdrawing the proposed rule and referendum order was published in the **Federal Register** on November 9, 2010 [75 FR 68728]. However, final referendum procedures were published in the **Federal Register** on April 12, 2010, [75 FR 18396] and added to 7 CFR part 1245 in Subpart B, along with reserved Subpart A. This action is needed to remove 7 CFR part 1245 from the CFR since the program was never implemented. This document provides for the removal of 7 CFR 1245 in its entirety.

Direct Final Action

The Agricultural Marketing Service (AMS) is removing from the Code of Federal Regulations (CFR), 7 CFR part 1245, U.S. Honey Producer Research, Promotion and Consumer Information Order (Proposed Order) in its entirety.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give

preliminary notice prior to putting this rule in effect because the initial referendum conducted by AMS for the Proposed Order was not approved during referendum and thus was not implemented. Further, AMS views this action as noncontroversial and anticipates no adverse public comment. This rule will be effective, as published in this document, May 16, 2011, without further action, unless AMS receives adverse comments or written notice of intent to submit adverse comments on or before April 15, 2011. Adverse comments are considered to be those comments that suggest the rule should not be adopted or suggest the rule should be changed.

If AMS receives adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. AMS will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

**Regulatory Flexibility Act and
Paperwork Reduction Act**

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601-612], the Department is required to examine the 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 disproportionately burdened.

The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of \$750,000 or less annually and small agricultural service firms as those having annual receipts of \$7.0 million or less. Using these criteria, under the Proposed Order, most producers and handlers would be considered small businesses. Pursuant to the requirements set forth in the RFA, it has been determined that this rule will not have an adverse economic impact on entities small or large. The Proposed Order was never implemented. No additional cost or burden is expected to result from this action.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements being terminated were

approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581—NEW. Termination of the reporting requirements will reduce the reporting burden on producers by about 11 hours.

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

Executive Order 12988

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

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

Under Section 519 of the Act, a person subject to an order may file a petition with USDA 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, USDA 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 be 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 entry of USDA's final ruling.

List of Subjects in 7 CFR Part 1245

Administrative practice and procedure, Advertising, Consumer Education, U.S. Honey, Marketing agreements, Promotion, Reporting and recordkeeping requirements.

Accordingly, under the authority of 7 U.S.C. 7411–7425; 7 CFR part 1245 is removed.

PART 1245—[Removed]

Dated: March 9, 2011.

David R. Shipman,
Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2011–6043 Filed 3–15–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0080]

Drawbridge Operation Regulation; Grassy Sound Channel, Middle Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Grassy Sound Channel Bridge across the Grassy Sound Channel, mile 1.0, at Middle Township, NJ. The deviation is necessary to facilitate the cleaning and painting of the structure. This deviation allows the bridge to remain closed for the entirety of the deviation period.

DATES: This deviation is effective from 5 a.m. on March 1, 2011 to 5 p.m. on April 30, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0080 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0080 in the “Keyword” box and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Terrance A. Knowles, Environmental Protection Specialist, Fifth District; Coast Guard; telephone 757–398–6587, e-mail Terrance.A.Knowles@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Cape May County Bridge Commission (CMCBC), who owns and operates this bascule drawbridge, has requested a temporary deviation from the current operating schedule to facilitate the cleaning and painting of the bridge structure. Under the regular operating schedule required by 33 CFR 117.721, the draw of the bridge shall open on signal from 6 a.m. to 8 p.m., from May 15 through September 30. From 9:15

a.m. to 2:30 p.m. on the fourth Sunday in March of every year, the draw need not open for vessels. If the fourth Sunday falls on a religious holiday, the draw need not open from 9:15 a.m. to 2:30 p.m. on the third Sunday of March of every year. Two hours advance notice is required for all other openings by calling (609) 368–4591.

The Grassy Sound Channel Bridge, mile 1.0, in Middle Township NJ, has a vertical clearance in the closed position of 15 feet above mean high water. Vessels that can transit under the bridge without an opening may do so at any time. Under this temporary deviation, CMCBC will maintain the bridge in the closed position to vessels beginning at 5 a.m. on March 1, 2011 through 5 p.m. on April 30, 2011.

Historically, in the last two years, the bridge has not opened during the months of March and April.

The Coast Guard will inform users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

The drawbridge will open in the event of an emergency. Vessels that can pass under the bridge without a bridge opening may do so at all times. Vessels have an alternate route by transiting through the nearby Great Channel drawbridge, a detour of approximately two miles.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 3, 2011.

Waverly W. Gregory, Jr.,
Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2011–6072 Filed 3–15–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0117]

RIN 1625–AA00

Safety Zone; Todd Pacific Shipyards Vessel Roll-Out, West Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.