

# Proposed Rules

Federal Register

Vol. 60, No. 122

Monday, June 26, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 11

#### National Appeals Division Rules of Procedure

**AGENCY:** Office of the Secretary, National Appeals Division, USDA.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** This notice reopens and extends until July 6, 1995, the comment period on the proposed National Appeals Division Rules of Procedure that were published in the **Federal Register** on May 22, 1995 (60 FR 27044-27049). The original closing date for receipt of comments was June 21, 1995. Comments received during the interim between that date and the publication date of this notice also will be accepted. Respondents now are given a 45-day period from the original date of publication to comment.

**DATES:** Written comments via letter, facsimile, or Internet must be received on or before 5:00 p.m., July 6, 1995.

**ADDRESSES:** Comments should be sent to L. Benjamin Young, Jr., Office of the General Counsel, Research and Operations Division, AgBox 1415, United States Department of Agriculture, Washington, D.C. 20250-1415; fax number: 202/720-5837; Internet: hqdoma-in.lawpo.young@sies.wsc.ag.gov.

**FOR FURTHER INFORMATION CONTACT:** L. Benjamin Young, Jr., at the above address or 202/690-1979.

Done at Washington, D.C., this 21st day of June, 1995.

**Dan Glickman,**

*Secretary of Agriculture.*

[FR Doc. 95-15702 Filed 6-22-95; 12:32 pm]

BILLING CODE 3410-01-M

## Agricultural Marketing Service

### 7 CFR Part 965

[Docket No. FV95-965-1PR]

#### Tomatoes Grown in the Lower Rio Grande Valley in Texas; Proposed Termination of Marketing Order 965

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to terminate the Federal marketing order for tomatoes grown in the Lower Rio Grande Valley in Texas (order) and the rules and regulations issued thereunder. In recent years, this industry has declined significantly in numbers of producers and handlers. In March 1959, when the order commenced, there were 2,488 producers and 61 handlers of tomatoes. Currently, there are approximately 10 producers, 5 of which are also handlers. The Texas Valley Tomato Committee (committee) last met on October 1, 1991, to conduct nominations. However, only a few of the former committee members are currently producers or handlers in the tomato industry and eligible to serve on the committee. Handling regulations have not been implemented since the 1973-74 fiscal period and there is no indication that the industry will be revived. Thus, there is no need for the Department of Agriculture to continue operation of this order.

**DATES:** Comments must be received by July 26, 1995.

**ADDRESSES:** Interested person are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; (202) 720-5698. 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 Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** James B. Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone (202) 720-2170, or Belinda G. Garza, McAllen

Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone (210) 682-2833.

**SUPPLEMENTARY INFORMATION:** This proposed rule is governed by the provisions of § 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 § 965.84 of the order.

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

This proposed termination of the order has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary 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 the Secretary 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 a principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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