

# Proposed Rules

Federal Register

Vol. 60, No. 227

Monday, November 27, 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

### Food and Consumer Service

#### 7 CFR Parts 210 and 225

RIN: 0584-ACO4

#### Removal of the "Cheese Alternate Products" Specifications From the National School Lunch Program

**AGENCY:** Food and Consumer Service, USDA.

**ACTION:** Proposed Rule; Reopening of comment period.

**SUMMARY:** This proposed rule reopens the comment period established in the National School Lunch Program (NSLP) proposed rule issued by the Department on September 27, 1995 (60 FR 49807). This action is being taken in order to provide interested parties additional time to provide comments on the proposed rule "Removal of the Cheese Alternate Product" specifications from the NSLP.

**DATES:** To be assured of consideration, comments must be postmarked on or before December 27, 1995.

**ADDRESSES:** Ms. Marion Hinners, Section Head, Food Science and Nutrition Section, Technical Assistance Branch, Nutrition and Technical Services Division, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marion Hinners, Section Head, Food Science and Nutrition Section, Technical Assistance Branch, Nutrition and Technical Services Division, USDA, (703)305-2556.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 27, 1995 the Department published at 60 FR 49807, a proposed rule to remove the specifications for cheese alternate products from the National School Lunch Program. That rule provided for a public comment period to run through November 13, 1995. Comments were

expected from both the institutions currently utilizing the cheese alternate products as well as the manufacturers of the cheese alternates. A national trade organization requested an extension of the comment period. The Department believes that any additional comments would be beneficial in developing a final rule in this area. Accordingly, the Department is reopening the public comment period found in the September 27, 1995 regulations through December 27, 1995.

Dated: November 14, 1995.  
William E. Ludwig,  
*Administrator, Food and Consumer Services.*  
[FR Doc. 95-28767 Filed 11-24-95; 8:45 am]  
BILLING CODE 3410-30-U

### Agricultural Marketing Service

#### 7 CFR Part 1160

[DA-96-01]

#### Fluid Milk Promotion Program; Notice of Referendum

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

**ACTION:** Notice of referendum.

**SUMMARY:** This document announces that a referendum will be held to determine whether fluid milk processors favor the continuation of the Fluid Milk Promotion Order. The National Fluid Milk Processor Board, which administers the order, requested the action. The order will remain in effect if it is favored by at least 50 percent of the fluid milk processors who marketed at least 60 percent of the fluid milk products sold in the United States.

**DATES:** The referendum will be held on February 29 through March 7, 1996. The representative period for establishing voter eligibility will be September 1995.

**FOR FURTHER INFORMATION CONTACT:** Lance Jervis, Referendum Agent, USDA/AMS/Dairy Division, Room 2759, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-3869.

**SUPPLEMENTARY INFORMATION:** This document announces that a referendum will be conducted on February 29 through March 7, 1996, among fluid milk processors to determine whether the Fluid Milk Promotion Order should continue. The Order is authorized by the Fluid Milk Promotion Act of 1990, as amended by the Fluid Milk

Promotion Amendments Act of 1993. The program is funded by a mandatory 20-cent assessment on processors whose monthly marketing exceeds 500,000 pounds of fluid milk products sold in the United States.

The Fluid Milk Promotion Order, which became effective December 10, 1993, provides that the Secretary shall conduct a continuation referendum at the request of the Board or any group of fluid milk processors which represents 10 percent or more of the fluid milk products marketed in the United States. The order specifies that this continuation referendum should be held not later than June 10, 1996, which is 30 months after the order's effective date.

The Fluid Milk Promotion Order will continue if the Secretary determines that it is favored by at least 50 percent of the processors voting in the referendum who during the representative period (as determined by the Secretary) marketed at least 60 percent of the volume of fluid milk products sold in the United States. The month of September 1995 is hereby determined to be the representative period for the conduct of such referendum. Fluid milk processors who wish to participate in the referendum will have to register to vote by certifying that they were processors during the month of September 1995. Those handlers processing and marketing more than 500,000 pounds of fluid milk products during the month of September will be eligible to vote in the referendum, provided they are fluid milk processors at the time of voter registration and during the time the referendum is conducted.

It is hereby directed that a referendum be conducted during the period of February 29 through March 7, 1996, in accordance with the procedure for the conduct of referenda (7 CFR 1160.600 et seq.), to determine whether the Fluid Milk Promotion Order is approved by fluid milk processors, who during the representative period were engaged in the distribution of fluid milk products within the 48 contiguous United States and the District of Columbia.

Lance Jervis is hereby designated as the agent of the Secretary to conduct such referendum.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are

included in the Fluid Milk Promotion Order have been approved by the Office of Management and Budget (OMB) and were assigned OMB No. 0581-0093, except for Board members' nominee information sheets that were assigned OMB No. 0505-0001.

#### List of Subjects in 7 CFR Part 1160

Milk, Fluid milk products, Promotion.

Authority: 7 U.S.C. 6401-6417.

Dated: November 20, 1995.

Shirley R. Watkins,

Acting Assistant Secretary Marketing and Regulatory Programs.

[FR Doc. 95-28769 Filed 11-24-95; 8:45 am]

BILLING CODE 3410-02-P

#### 7 CFR Part 1208

[FV-95-702PR]

#### Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order—Postponement of Payment of Assessments

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule specifies general rules and regulations to be established under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order). The Order is authorized under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993. This rule would implement a provision of the Order concerning the postponement of the payment of assessments. This action would create a form and establish procedures for qualified handlers to request the postponement of the payment of up to six months of assessments to the National PromoFlor Council. In addition, in accordance with the Paperwork Reduction Act of 1995, this proposed rule specifies the public reporting burden for the collection of information for requesting a postponement of payment of assessments.

**DATES:** Comments must be received by January 26, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments concerning the proposed rule to: Research and Promotion Branch, Fruit and Vegetable Division, Agricultural Marketing Service (AMS), USDA, P.O. Box 96456, Room 2535-S, Washington, DC 20090-6456. Three copies of all written material should be submitted, and they will be made available for public inspection at the Research and Promotion Branch during regular

business hours. All comments should reference the docket number and the date and page number of this issue of the Federal Register. Also send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address.

**FOR FURTHER INFORMATION CONTACT:**

Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2535-S, Washington, DC 20090-6456, telephone (202) 720-9916.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (Pub. L. 103-190), (7 U.S.C. 6801 *et seq.*) hereinafter referred to as the Act.

This proposed rule has been issued in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This 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 section 8 of the Act, a person subject to the order may file a petition with the Secretary stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

#### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of AMS has considered the economic impact of this proposed 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.

Only those wholesale handlers, retail distribution centers, producers, and importers who have annual sales of \$750,000 or more of cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order. There are approximately 900 wholesaler handlers, 150 importers, and 200 domestic producers who are qualified handlers.

The majority of these qualified handlers would be classified as small businesses. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5 million. Statistics reported by the National Agricultural Statistics Service show that 1994 sales at wholesale of domestic cut flowers and greens total approximately \$559.6 million while the value of imports during 1994 was approximately \$382 million. The leading States in the United States producing cut flowers and greens, by wholesale value, are California, which produces approximately 59 percent of the domestic crop, followed by Florida, Colorado, and Hawaii. Major countries exporting cut flowers and greens into the United States, by value, are Columbia, which accounts for approximately 60 percent, followed by The Netherlands, Mexico, and Costa Rica.

The Administrator of the AMS has determined that this rule would not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

While this proposed rule would impose certain recordkeeping requirements on qualified handlers that request a postponement of the payment of assessments, most of the information required under the proposed rule could be compiled from records currently maintained. Thus, any added burden resulting from increased recordkeeping would not be significant when compared to the benefits that should accrue to such businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), a form to request the postponement of the payment, "Application for Postponement of Payment of PromoFlor Assessment", has been submitted to OMB for approval.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .25 hours per response for each qualified handler requesting a postponement of payment of assessment.