

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 918****[Docket No. FV-97-918-1PR]****Fresh Peaches Grown in Georgia;
Proposed Termination of Marketing
Order No. 918****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

SUMMARY: This proposal invites comments on the termination of the Federal marketing order regulating the handling of fresh peaches grown in Georgia (order) and the rules and regulations issued thereunder. The order does not reflect current industry structure and operating procedures and there is no industry support for reactivating the order. Therefore, there is no need to continue this order.

DATES: Comments must be received by July 7, 1997.

ADDRESSES: Interested persons 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, Fax: (202) 720-5698. 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 Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (941) 299-4770, Fax: (941) 299-5169; or Caroline Thorpe, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139, Fax: (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This proposal is governed by provisions of section 608(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 § 918.81 of the order.

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will 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 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 his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This proposed rule would terminate the order regulating the handling of peaches grown in Georgia. Sections 918.81 and 918.82 of the order contain the authority and procedures for termination.

The order was initially established in 1942 to help the industry solve specific marketing problems and maintain orderly marketing conditions. It was the responsibility of the Peach Industry Committee (committee), the agency established for local administration of the marketing order, to periodically investigate and assemble data on the growing, harvesting, shipping, and marketing conditions of Georgia peaches. The committee tried to achieve orderly marketing and improve acceptance of Georgia peaches through the establishment of minimum size, maturity and quality requirements.

The Georgia peach industry has not operated under the marketing order for four years. The order and all of its accompanying rules and regulations were suspended March 1, 1993, for two years (58 FR 8209). At the request of the industry, the Department extended the suspension for two more years (60 FR 17633). Regulations have not been applied under the order since 1992, and no committee has been appointed since then. The only regulations the industry

is using are for research, promotion, and advertising. This is handled locally by the Georgia Commodity Commission through a State program.

In 1942, when the marketing order was issued, there were over 300 growers of Georgia peaches. Currently, there are approximately 20 peach growers.

The Department contacted many current industry members with respect to the need for reinstating the marketing order. Virtually all the individuals corresponding with the Department stated they were not interested in reestablishing the order. There was a peach industry meeting held on February 6, 1997, in Byron, Georgia where the marketing order was a topic of discussion. There was no support from the attendees for reactivating or amending the order.

There have been changes in industry structure and operating procedures since the order was last amended. Making the marketing order reflect these changes could require further amendments. The steps necessary to amend and reactivate the existing order would be similar to what would be required to establish a new order. The need for a new or amended marketing order would have to be justified and supported by a large majority of Georgia peach growers. This would require a public hearing and a grower referendum. There is no determinable industry support for a marketing order. Thus, there is little justification to continue the current order.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this 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 rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 8 handlers of Georgia peaches who would be subject to regulation under the marketing order and approximately 20 peach growers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than

\$500,000. The majority of the Georgia peach growers and handlers may be classified as small entities.

This proposed rule would terminate the order regulating the handling of peaches grown in Georgia. The order and its accompanying rules and regulations have been suspended since March 1, 1993. No regulations have been implemented since the 1990-91 season, and there is no indication that such regulations will again be needed.

The industry has been operating without a marketing order since its suspension. Reestablishing the order would mean additional cost to the industry stemming from assessments to maintain the order and any associated costs generated by regulation. By not reinstating the marketing order, the industry benefits from avoiding these costs. Because the industry has been operating without an order for four years, the termination of the order would have no noticeable effect on either small or large operations.

The Department attempted to solicit as much industry input on this decision as possible. The Department sent a letter to current industry members it was able to identify seeking comments on the need for reinstating the marketing order. There was a peach industry meeting held on February 6, 1997, in Byron, Georgia where the marketing order was a topic of discussion. In addition, this action provides the opportunity for all interested persons to comment on this proposal.

The Department believes that conducting a termination referendum would merely reaffirm the Georgia peach industry's continued lack of interest in reactivating the marketing order and that conducting such a referendum would be wasteful of Departmental and public resources.

Therefore, pursuant to section 608c(16)(A) of the Act and § 918.81 of the order, the Department is considering the termination of Marketing Order No. 918, covering peaches grown in Georgia. If the Secretary decides to terminate the order, trustees would be appointed to continue in the capacity of concluding and liquidating the affairs of the former committee.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was notified of this proposed termination on April 25, 1997.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 918

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

PART 918—[REMOVED]

For the reasons set forth in the preamble, and under authority of 7 U.S.C. 601-674, 7 CFR part 918 is proposed to be removed.

Dated: May 29, 1997.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

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DEPARTMENT OF ENERGY

10 CFR Part 711

[Docket No. DP-RM-97-100]

RIN 1992-AA14

Personnel Assurance Program

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Department of Energy (DOE or Department) today proposes Personnel Assurance Program (PAP) procedures and standards for DOE and DOE contractor employees who are assigned nuclear explosive duties at DOE facilities. The PAP is a systematic program, previously established by internal DOE directive, to prevent accidental or unauthorized detonation of nuclear explosives as a result of assignment of nuclear explosives duties to employees who have become emotionally, mentally, or physically incapacitated. The proposed rule includes medical standards for evaluating DOE and contractor employees in the PAP.

DATES: Written comments (7 copies) on the proposed rule must be received by the Department on or before August 4, 1997.

Oral views, data, and arguments may be presented at public hearings which are scheduled as follows:

1. July 8, 1997, 9 a.m.-12 noon and 5 p.m.-8 p.m., Amarillo, TX.
2. July 10, 1997, 10 a.m.-12 noon and 2 p.m.-5 p.m., North Las Vegas, NV.

Requests to speak at a hearing should be phoned in to the Department, (202) 586-3012, no later than 4 p.m. on July 3, 1997, for both hearings.

The length of each oral presentation is limited to 10 minutes.

ADDRESSES: Written comments (7 copies) should be mailed to: U.S.

Department of Energy, Office of Defense Programs, DP-21, Docket Number DP-RM-97-100, 1000 Independence Ave. SW., Washington, DC 20585. Requests to speak at a hearing may be phoned in to (202) 586-3012. The public hearings will be held at the following locations.

1. Amarillo, TX, Sunset Convention Center, 3701 Plains Blvd (at Western), Suite 135.

2. North Las Vegas, NV, USDOE, 232 Energy Way (off Losee Rd), room A-106/107 (first floor, "The Great Basin Room").

Copies of transcripts from hearings and written comments may be inspected and photocopied in the DOE Freedom of Information Reading Room, Room 1E-190, (202) 586-6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

For additional information concerning public participation in this rulemaking, see the "Opportunity for Public Comment" section in the Supplementary Information section of this proposed rule.

FOR FURTHER INFORMATION CONTACT:

For further information concerning the proposed rule: Mr. Randall Weidman, U.S. Department of Energy, Office of Defense Programs (DP-21), 1000 Independence Ave. SW., Washington, DC 20585, (301) 903-3154.

For further information concerning Subpart B, Medical Assessments for PAP Certification and Recertification: Mr. Kenneth O. Matthews, Office of Occupational Medicine and Medical Surveillance (EH-61), 1000 Independence Ave. SW., U.S. Department of Energy, Washington, DC 20585, (301) 903-6398.

For further information concerning the public hearings and submitting written comments: Ms. Andi Kasarsky, (202) 586-3012.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Atomic Energy Act of 1954 (Act), DOE owns defense nuclear facilities in various locations in the United States which are operated by management and operating contractors under DOE supervision. These facilities are involved in researching, testing, producing, disassembling, and transporting of nuclear explosives which, when mated with Department of Defense provided delivery systems, become nuclear weapon systems.

Pursuant to section 161 of the Act, 42 U.S.C. 2201 (b), (i)(3), and (p), DOE and its predecessor agencies—the Atomic Energy Commission (AEC) and the Energy Research and Development Administration (ERDA)—have used