

4. \* \* \*

**Exclusion****Bifenthrin**

\* \* \* The dosage rate for granular bifenthrin is variable and is determined by the certification period selected; for flowable bifenthrin it is 25 ppm; for wettable powder bifenthrin it is 50 ppm.

\* \* \* \* \*

**5. Field-Grown Woody Ornamentals (In-Field Treatment Prior to Harvest)**

Material: Chlorpyrifos used in combination with fenoxycarb (AWARD®), hydramethylnon (AMDRO®), or pyriproxyfen (Distance®) fire ant bait.

Dosage: Fenoxycarb (AWARD®), hydramethylnon (AMDRO®), or pyriproxyfen (Distance®) at 1.0–1.5 lb (0.45–0.68 kg) bait/acre. Chlorpyrifos at 6.0 lb (2.7 kg) a.i./acre.

\* \* \* \* \*

Done in Washington, DC, this 1st day of June 1999.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99–14306 Filed 6–4–99; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Parts 916 and 917**

[Docket No. FV99–916–3 PR]

**Nectarines and Peaches Grown in California; Revision of Reporting Requirements for Fresh Nectarines and Peaches; Request for Revision to Currently Approved Information Collections**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on proposed revisions to the rules and regulations of the marketing orders (orders) for fresh nectarines and peaches grown in California pertaining to reporting requirements. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the orders. The orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). Under the orders, authority is provided for the committees to require handlers to file reports on the destinations of their shipments of fresh nectarines and peaches. This rule would require handlers to file such destination reports.

Additional and timely information would thus be available to the committees and industry, facilitating improved decisionmaking and program administration with regard to marketing research and development, and promotional activities.

**DATES:** Comments must be received by August 6, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. 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 at the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Terry Vawter, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 205–5698; or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: <http://www.ams.usda.gov/fv/moab.html>.

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Agreements Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the “orders.” The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as

amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (Department) is issuing this proposed 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 rule 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 the date of the entry of the ruling.

This proposal invites comments on revisions to the orders' rules and regulations pertaining to reporting requirements under the orders. This rule would establish procedures in the orders' rules and regulations for handlers to file reports on the destinations of their shipments of fresh nectarines and peaches. Under the orders the term “handler” is synonymous with the term “shipper.” This proposal was unanimously recommended by the committees at their meetings on December 2, 1998.

In §§ 916.60 and 917.50 of the orders, authority is provided for the committees to require handlers to file reports with the committees. The information authorized includes, but is not limited to: (1) The name of the shipper and the shipping point; (2) the car or truck license number (or name of the trucker), and identification of the carrier; (3) the date and time of departure; (4) the number and type of containers in the shipment; (5) the quantities shipped, showing separately the variety, grade, and size of the fruit; (6) the destination; and (7) the identification of the inspection certificate or waiver pursuant to which the fruit was handled. Handlers have not been required to

report the destinations of their shipments of fresh nectarines and peaches.

The Nectarine Administrative Committee's (NAC) and the Peach Commodity Committee's (PCC) discussions on destination reports were prompted by recommendations of two subcommittees which met prior to the December 2, 1998, committee meetings. At a Domestic Promotion Subcommittee meeting, the merits of destination reports were discussed, among other issues. The subcommittee unanimously recommended adding a requirement to the orders' rules and regulations for destination reports. The subcommittee believed that having information about markets to which nectarines and peaches are shipped would be a valuable marketing tool. The members believed that such information would allow the subcommittee to target markets more effectively for promotion, and permit a more effective analysis of the effectiveness of industry funded media and promotional campaigns. At an International Programs Subcommittee meeting, the merits of destination reports also were discussed. The members of this subcommittee also believed that such reports would provide invaluable information to assist the NAC and PCC in targeting their promotional activities in the most-promising markets for these two fruits.

The NAC and PCC discussed the subcommittees' recommendations and the merits of destination reporting. Both the NAC and PCC agreed that the establishment of such a report requiring each handler to list the destination of his/her shipments of nectarines and peaches in both domestic and international markets would provide invaluable information and greatly benefit the industries.

With destination information from handlers, the committees would be able to make better-informed decisions about marketing research and development projects conducted, and gauge the success of such activities knowing the volume of fruit shipped to various markets. With this information, the committees also could direct their marketing research and development activities and funds to the most-promising markets, and tailor the activities to meet the needs of the particular markets, focus on the more successful promotional activities, and target markets based on consumption.

Current market analysis tools, such as consumer and retail surveys, provide useful information based on a small group of respondents, but specific shipment and destination information will enable the committees to direct

their activities to the most successful markets, and perform a more thorough analysis of the benefits of their promotional activities.

Without exact destination information, the committees do not know precisely the quantities of nectarines and peaches shipped to various markets, and, therefore, may be spending funds on promotional activities not appropriate for the particular market. Experience has shown that certain types of promotion are appropriate for developing markets and other activities are more appropriate when trying to expand markets. With the ability to determine the markets to which nectarines and peaches are not shipped, the committees would have the ability to direct their marketing research and promotion funds to open those markets for future shipments. In addition, such information would permit the committees to constructively evaluate the effectiveness of their marketing promotion and research programs by helping them get a better handle on promotions that have been working and those that have not, and determine the reason(s) for the lack of success. The industries have long recognized the importance of this information in making their promotion activities more effective and in helping sell more nectarines and peaches. They have tried voluntary reporting, but this has not worked.

The shipping season for nectarines begins April 1 and ends on October 31 of each year, and the shipping season for peaches begins on April 1 and ends on November 23 of each year. The destination report would be required from all handlers by the fifteenth of the month following the month in which the shipments were made. Handlers would be required to report the number of packages of peaches and nectarines, both yellow and white-fleshed, by variety, grade, and size shipped to each destination. Destination information for domestic market shipments would include the city, state, and zip code. Destination information for international market shipments would include the country to which shipped.

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 initial 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 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000. Small agricultural producers are defined as those having annual receipts of less than \$500,000.

The committees' staff have estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. If the average handler price received were \$9.00 per box or box equivalent of nectarines or peaches, a handler would have to ship at least 555,000 boxes to have annual receipts of \$5,000,000. Small handlers would, therefore, represent approximately 94 percent of the handlers within the industry. In addition, the staff estimates that there are approximately 400 producers who could be defined as other than small entities. If the average producer price received were \$6.00 per box or box equivalent for nectarines and \$5.65 per box or box equivalent for peaches, producers would have to produce approximately 84,000 boxes or box equivalents of nectarines and approximately 89,000 boxes or box equivalents of peaches to have annual receipts of \$500,000. Therefore, small producer entities would represent approximately 78 percent of the producers within the industry. For these reasons, a majority of the handlers and producers may be classified as small entities.

This proposal would revise §§ 916.160 and 917.178 of the orders' administrative rules and regulations to require handlers to file destination reports on a monthly basis during the shipping season by adding a new paragraph (c) to each section. The information obtained from such reports would improve decision making and program administration with regard to marketing research and development activities undertaken to expand shipments of fresh nectarines and peaches domestically and in foreign markets.

Requiring handlers to file this report on a monthly basis would impose an

additional reporting burden on both small and large handlers. The report is estimated to take one hour to complete. It is further estimated that handlers would file an average of four destination reports per year, creating an estimated total annual burden of 4 hours per handler. The estimated total industry annual burden is, therefore, estimated at approximately 1,200 hours per year for nectarine and peach shipments each.

Although this action would create an additional burden on handlers of fresh nectarines and peaches, the benefits of collecting additional and timely information regarding destinations are anticipated to outweigh the estimated increased reporting burden. The committees would have detailed information about markets to which fruit is sent; and, therefore, would be able to make better-informed decisions about marketing research and promotion fund expenditures and activities undertaken. Such reports and forms would be filed by all handlers, regardless of size; and thus, the increased burden would be equitably distributed to all handlers. Finally, as with all Federal marketing orders programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule are being submitted to the Office of Management and Budget (OMB) for approval. This rule would not become effective until this additional information collection is approved by the OMB. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

An alternative to this proposed action would be to continue operations without required destination reporting. Most committee members agreed that the value of having destination information outweighed the burden on handlers of filing such reports in terms of targeting marketing and promotion funds and activities. In recent years, the committees have decided to keep their marketing and promotion expenses relatively constant. Because of this, the members felt that greater emphasis should be placed on using the funds to their greatest advantage.

All members agreed that continuing to spend promotion funds, without the information to be provided by destination reports, was not in the best interest of the industries. It was agreed, that as the percentage of promotion

funds either decreases or remains constant in relationship to total committee funds, and as shipments of nectarines and peaches increase over time, detailed information on the destinations of nectarine and peach shipments would be invaluable in targeting promising markets. The committee members also noted that voluntary destination reports have been requested in the past, but very few handlers provided the information. The committees, therefore, voted unanimously at all the meetings to require destination reports from nectarine and peach handlers.

During the deliberations, some committee members indicated their concern that destination information would not be kept confidential by committee staff. The Act states, in part, in section 608d(2), that "all information furnished to or acquired by the Secretary of Agriculture pursuant to this section, as well as information for marketing order programs that is categorized as trade secrets and commercial or financial information \* \* \* shall be kept confidential by all officers and employees of the Department of Agriculture." In addition, §§ 916.60(d) and 917.50(d) also require committee employees to maintain confidentiality of all reports and records submitted by handlers. Therefore, each handler is generally protected against disclosure of any confidential information the handler furnishes to the committees. Persons found guilty of the unauthorized disclosure of confidential information could be subject to a fine, imprisonment, or both, or could be removed from office.

The committee meetings were widely publicized throughout the tree fruit industry and all interested persons were invited to express their views and participate in committee deliberations. Like all committee meetings, the December 2, 1998, meetings were public meetings, and all entities, large and small, were able to express their views on this issue. The subcommittees meetings were also public meetings at which large and small entities were invited to express their views and participate in deliberations. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

#### **Paperwork Reduction Act (Nectarines)**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request a revision to a currently approved information

collection for Nectarines Grown in California, Marketing Order No. 916.

*Title:* Nectarines Grown in California, Marketing Order 916.

*OMB Number:* 0581-0072.

*Expiration Date of Approval:* May 31, 2000.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* Marketing order programs provide an opportunity for producers of fresh fruits, vegetables, and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601-674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The California nectarine marketing order program, which has been operating since 1958, authorizes the issuance of grade, size, maturity regulations, inspection requirements, and marketing and production research, including paid advertising. Regulatory provisions apply to nectarines shipped within and out of the area of production to any market, except those specifically exempted by the marketing order.

The order and its rules and regulations authorize the Nectarine Administrative Committee (committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in the aggregate and provided to the industry to assist in marketing decisions. The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the California nectarine marketing order program.

The Committee has developed forms as a convenience to persons who are required to file information with the Committee that is needed to carry out the purposes of the Act and the order. These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Program regional and headquarters staff, and authorized employees of the committee. Authorized committee employees and the industry are the primary users of the information and AMS is the secondary user.

This proposed collection consists of a new requirement for handlers to provide information about the destination(s) of nectarine shipments. With shipment destination information from handlers, the committee would be able to make better-informed decisions about the marketing research and development projects conducted. The committee could direct its marketing research and development funds to the most-promising markets. The committee might determine that it is spending funds for promotional activities in markets with limited expansion opportunities. The committee might also find that it is spending too much money in a market where promotion is no longer needed, or only needed to a limited extent. Having information about markets to which nectarines are shipped would be a valuable marketing tool. Not only would such information permit the committee to target markets more effectively for promotion, it would also permit effective measurement of media use and promotional campaigns.

Section 501(c) of the Federal Agriculture Improvement and Reform Act of 1996 requires each advertising program under the oversight of the Department to fund an independent analysis of the effectiveness of the program at least every five years, unless otherwise provided by law. Information on shipment destinations would be useful in performing these analyses for California nectarines.

The proposed revision to the currently approved information requirements issued under the order is as follows:

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

*Respondents:* Handlers of fresh nectarines produced in California.

*Estimated Number of Respondents:* 300.

*Estimated Number of Responses per Respondent:* 4.

*Estimated Total Annual Burden on Respondents:* 1,200 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the California nectarine marketing order program and USDA's oversight of that program; (2) the accuracy of the

collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments should reference OMB No. 0581-0072 and the California Nectarine Marketing Order No. 916, and be sent to the USDA in care of the docket clerk at the address referenced above. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

#### **Paperwork Reduction Act (Peaches)**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request a revision to a currently approved information collection for Peaches Grown in California, Marketing Order No. 917.

*Title:* Peaches Grown in California, Marketing Order 917.

*OMB Number:* 0581-0080.

*Expiration Date of Approval:* July 31, 2000.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601-674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The California peach marketing order program, which has been operating since 1939, authorizes the issuance of grade, size, maturity regulations, inspection requirements, and marketing and production research, including paid advertising. Regulatory provisions apply to peaches shipped within and out of the area of production to any market, except those specifically exempted by the marketing order.

The order and its rules and regulations authorize the Peach Commodity Committee (committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in the aggregate and provided to the industry to assist in marketing decisions. The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the California peach marketing order program.

The Committee has developed forms as a convenience to persons who are required to file information with the Committee that is needed to carry out the purposes of the Act and the order. These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Program regional and headquarters staff, and authorized employees of the committee. Authorized committee employees and the industry are the primary users of the information and AMS is the secondary user.

This proposed collection consists of a new requirement for handlers to provide information about the destination(s) of peach shipments. With shipment destination information from handlers, the committee would have the ability to make better-informed decisions about the marketing research and development projects conducted. The committee would be able to direct its marketing research and development funds to the most-promising markets. The committee might also determine that it is spending funds in markets with limited expansion potential, or that it is spending too much money in a market where promotion is no longer needed, or only needed to a limited extent. Having information about markets to which peaches are shipped would be a valuable marketing tool. Not only would such information permit the subcommittee to target markets more effectively for promotion, it would also permit effective measurement of media use and promotional campaigns.

Section 501(c) of the Federal Agriculture Improvement and Reform Act of 1996 requires that each advertising program under the oversight of the Department fund an independent analysis of the effectiveness of the

program at least every five years, unless otherwise provided by law. Information on shipment destinations would be useful in performing these analyses for California peaches.

The proposed revision to the currently approved information requirements issued under the order is as follows:

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

*Respondents:* Handlers of fresh peaches produced in California.

*Estimated Number of Respondents:* 300.

*Estimated Number of Responses per Respondent:* 4

*Estimated Total Annual Burden on Respondents:* 1,200 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the California peach marketing order program and USDA's oversight of that program; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments should reference OMB No. 0581-0080 and the California Peach Marketing Order No. 916, and be sent to the USDA in care of the docket clerk at the address referenced above. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

A 60-day comment period is provided to allow interested persons to respond to this proposal.

#### List of Subjects

##### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

##### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601-674.

#### PART 916—NECTARINES GROWN IN CALIFORNIA

2. In § 916.160, paragraph (c) is added to read as follows:

##### § 916.160 Reporting procedure.

\* \* \* \* \*

(c) *Destination report.* Each shipper who ships nectarines shall furnish to the manager of the Nectarine Administrative Committee a report of the number of packages of nectarines, both yellow-fleshed and white-fleshed, by variety, grade, and size shipped to each destination. The destination is defined as nectarine shipments to any domestic or international market. Destination information for domestic market shipments shall include city, state, and zip code. Destination information for international market shipments shall include the country to which shipped. This report shall be submitted by the fifteenth of each month following the month in which nectarine shipments were made.

#### PART 917—PEACHES GROWN IN CALIFORNIA

3. In § 917.178, paragraph (c) is added to read as follows:

##### § 917.178 Peaches.

\* \* \* \* \*

(c) *Destination report.* Each shipper who ships peaches shall furnish to the manager of the Control Committee a report of the number of packages of peaches, both yellow-fleshed and white-fleshed, by variety, grade, and size shipped to each destination. The destination is defined as peach shipments to any domestic or international market. Destination information for domestic market shipments shall include the city, state, and zip code. Destination information for international market shipments shall include the country to which shipped. This report shall be submitted by the fifteenth of each month following the month in which peach shipments were made.

Dated: June 1, 1999.

**Bernadine M. Baker,**

*Acting Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99-14313 Filed 6-4-99; 8:45 am]

BILLING CODE 3410-02-U

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 1065

[DA-99-01]

#### Milk in the Nebraska-Western Iowa Marketing Area; Termination of Proceeding on Proposed Suspension

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

**ACTION:** Termination of Proceeding.

**SUMMARY:** This document terminates the proceeding that was initiated to consider a proposal to suspend portions of the supply plant shipping requirements for the Nebraska-Western Iowa order for the months of March through September 1999.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090-6456, (202) 720-2357, e-mail address: connie\_m\_brenner@usda.gov.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding: Notice of Proposed Suspension of Rule: Issued March 11, 1999; published March 17, 1999 (64 FR 13125).

#### Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service considered the economic impact of this rulemaking action on small entities and has certified that this termination of proceeding will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.