

Lastly, AFFI suggested that with the criteria for “Cap Ends” above and the tolerances given for “Tough Fiber”, the “Inedible Stems” category was no longer needed.

Subsequent to their submission of comments, and upon further discussion with AFFI through several discussion drafts between September 2008 and February 2011, the following changes also were proposed. From the definition of “Appearance”, the reference to “for regular process” would be deleted. This terminology does not apply to the concept of the term, “Appearance” and its elimination from the proposed standards would have no impact on the grade of the product.

Also, in the definition of the term, Appearance, under Good Appearance, “reasonably free” would be changed to “practically free”, and under “Reasonably Good Appearance,” “fairly free” would be changed to “reasonably free”. Under the term, “Flavor and odor,” in the reference to “Normal flavor and odor,” “Normal” would be changed to “Reasonably Good”.

These changes would provide a uniform format consistent with recent revisions of other U.S. grade standards. The term, “Hard, woody okra material” would be added to the standards. These terms and allowances currently are in the USDA grading manual for frozen okra effective January 1996, and as such, the standards should be updated.

This proposed revision of the frozen okra standard would revise the text of the standard to provide a common language for trade and better reflect the current marketing of frozen okra. The official grade of a lot of frozen okra covered by these standards is determined by the procedures set forth in the “Regulations Governing Inspection and Certification of Processed Products Thereof, and Certain Other Processed Food Products (§ 52.1 to 52.83).”

AMS is publishing this notice with a sixty day comment period that will provide a sufficient amount of time for interested persons to comment on the proposed revision to the standards.

**Authority:** 7 U.S.C. 1621–1627.

Dated: May 9, 2011.

**Ellen King,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–11718 Filed 6–1–11; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 916 and 917

[Doc. No. AMS–FV–11–0018; FV11–916/917–4 PR]

#### **Nectarines and Fresh Peaches Grown in California; Termination of Marketing Order 916 and the Peach Provisions of Marketing Order 917**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on the proposed termination of the Federal marketing orders regulating the handling of nectarines and fresh peaches grown in California (orders) and the rules and regulations issued thereunder. This action is based upon a decision by the Department of Agriculture (USDA) following referenda conducted among industry growers. As provided under the orders, USDA considers order termination if fewer than two-thirds of growers participating in regularly scheduled continuance referenda, by number and production volume, support continuance. In 2011 referenda, growers failed to support continuance of the orders and their programs in sufficient numbers and USDA now proposes to terminate the orders.

**DATES:** Comments must be received by June 17, 2011.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: <http://www.regulations.gov>. All comments should reference the document 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, 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 the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Jerry L. Simmons, Marketing Specialist, or Kurt J. Kimmel, Regional Manager,

California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901; Fax: (559) 487–5906; or E-mail: [Jerry.Simmons@ams.usda.gov](mailto:Jerry.Simmons@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Laurel May, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the “orders.” The 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.”

USDA is issuing this rule in conformance with Executive Order 12866.

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

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 USDA 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 USDA 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 USDA’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 rule proposes to terminate Marketing Order 916—the nectarine order—and the peach provisions of Marketing Order 917—the fresh pear and peach order—as well as the pertinent rules and regulations issued thereunder. USDA believes that termination of these programs would be

appropriate because the programs are no longer favored by industry growers.

The orders authorize regulation of the handling of nectarines and fresh pears and peaches grown in California. Sections 916.64 and 917.61 of the orders require USDA to conduct continuance referenda among growers of these fruits every four years to ascertain continuing support for the orders and their programs. These sections further require USDA to terminate the orders if it finds that the provisions of the orders no longer tend to effectuate the declared policy of the Act. Section 608c(16)(A) of the Act requires USDA to terminate or suspend the operation of any order whenever the order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act. Finally, USDA is required to notify Congress of the intended terminations not later than 60 days before the date the orders would be terminated.

Continuance referenda were conducted among growers of California nectarines and fresh pears and peaches in January and February 2011. Fewer than two-thirds of participating growers, by number and production volume, voted in favor of continuing the nectarine and peach orders. By contrast, more than 94 percent of pear growers voted to continue the pear order provisions.

Grower support for the programs was similar in the last referenda, which were conducted in 2003. USDA conducted public listening sessions following the referenda and found that the nectarine and peach orders might continue to benefit the industries if modifications were made to the programs. Subsequently, several revisions were made to the orders and the handling regulations over the last several years. Continuance referendum requirements were suspended for 2007 because the orders had just been amended, and the industries wanted to operate the amended orders for a period of time before voting again on continuance.

Nevertheless, the results of the most recent referenda, as well as feedback from the industries over the last few years, suggest that the nectarine and peach programs no longer meet industry needs and that the benefits of such programs no longer outweigh costs to handlers and growers. USDA believes that the referendum results and industry feedback support termination of the programs.

As stated earlier, pear growers in the most recent referendum, as well as in previous referenda, supported continuance of the pear order provisions, which have been suspended since 1994 (59 FR 10055; March 3,

1994). USDA does not intend to terminate the pear order provisions at this time. The remainder of this document pertains to the termination of the nectarine and peach order provisions only.

The nectarine order has been in effect since 1958, and the peach order since 1939. Operating under the management umbrella of the California Tree Fruit Agreement (CTFA), the orders have provided the California fresh tree fruit industries with authority for grade, size, quality, maturity, pack, and container regulations, as well as the authority for mandatory inspection. The orders also authorize production research and marketing research and development projects, as well as the necessary reporting, recordkeeping, and assessment functions required for operation.

Based on the referendum results and other pertinent factors, USDA suspended the orders' handling regulations on April 19, 2011 (76 FR 21615). The suspended handling regulations consist of minimum quality and inspection requirements for nectarines and peaches marked with the "California Well Matured" label, which is available for use only by handlers complying with prescribed quality and maturity requirements under the orders. As well, all reporting and assessment requirements were suspended.

Originally established to maintain the orderly marketing of California tree fruit, the quality regulations under the order evolved over the years to reflect industry trends. The "California Well Matured" label was developed to define standards for premium quality fruit harvested and packed at its peak to satisfy customer demands. Working with the Federal and Federal-State Inspection Programs, the Nectarine Administrative Committee and Peach Commodity Committee (committees), which administer the day-to-day operations of the programs, recommended variety-specific size and maturity standards that were incorporated into the regulations. These standards helped ensure that the industry marketed and shipped the highest quality fruit, which in turn supported increased returns to growers and handlers. A "utility grade" was defined to allow for the movement of a certain percentage of lesser quality fruit to markets where it could be sold without undermining the industry's overall marketing goals.

Funded through assessments paid by handlers, the committees sponsored production research programs to address grower needs such as pesticide use and development of new fruit

varieties. As well, post-harvest handling concerns, such as container and pack configuration, were addressed through committee-funded research. Assessment funds were also used to fund market research and development projects, promoting California tree fruit in both domestic and international markets.

In recent years, changes in the industry led the committees to reduce the number of programs they supported through the orders. Because many customers now establish their own quality standards, the committees felt it was no longer essential to mandate inspection and certification of packed fruit to marketing order standards. During the last few years, only those handlers wishing to use the "California Well Matured" label were required to obtain inspection and certification. With the consolidation of many smaller farms, larger companies have undertaken their own research and promotion programs, thus minimizing the desirability of committee-funded generic programs.

The industries proposed several amendments to the orders, which were effectuated in 2006 and 2007 (71 FR 41345; July 21, 2006). The amendments modernized the orders to streamline administration of the programs. The district boundaries within the regulated production areas were redefined, and the committee structures and nomination procedures were modified to provide greater opportunities for participation in committee activities by industry members.

Despite USDA efforts to help refine the programs over the past several years, growers have continued to express their belief that the programs no longer meet their needs. These referendum results demonstrate a lack of grower support needed to carry out the objectives of the Act. Thus, it has been determined that the provisions of the orders no longer tend to effectuate the declared policy of the Act and should be terminated.

Specifically, part 916, regulating the handling of nectarines grown in California would be removed from the Code of Federal Regulations. In part 917, which regulates the handling of both pears and peaches, §§ 916.8, 917.22, 917.150, 917.258, 917.259, 917.442, and 917.459, which relate solely to peaches, would be removed. §§ 917.4, 917.5, 917.6, 917.15, 917.20, 917.24, 917.25, 917.26, 917.28, 917.29, 917.34, 917.35, 917.37, 917.100, 917.119, and 917.143 would be revised to remove references to peaches and to conform to removal of other sections. In some sections of part 917, language relating to the regulation of pears is currently suspended. Such suspensions

would be lifted to facilitate revision of these sections. Finally, the remaining provisions and administrative rules and regulations under part 917 would be suspended indefinitely.

This proposed rule is intended to solicit input and any additional information available from interested parties regarding whether the nectarine and peach order provisions should be terminated. USDA will evaluate all available information prior to making a final determination on this matter. Termination of the orders would become effective only after a 60-day notification to Congress, as required by law.

#### Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 97 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 447 growers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural growers are defined as those having annual receipts of less than \$750,000. A majority of these handlers and growers may be classified as small entities.

For the 2010 marketing season, the committees' staff estimated that the average handler price received was \$10.50 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 666,667 containers to have annual receipts of \$7,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2010 season, the committees' staff estimates that approximately 46 percent of handlers in the industry would be considered small entities.

For the 2010 marketing season, the committees' staff estimated the average grower price received was \$5.50 per container or container equivalent for nectarines and peaches. A grower would have to produce at least 136,364 containers of nectarines and peaches to have annual receipts of \$750,000. Given data maintained by the committees' staff and the average grower price received during the 2010 season, the committees' staff estimates that more than 80 percent of the growers within the industry would be considered small entities.

This rule proposes to terminate the Federal marketing orders for nectarines and peaches grown in California, and the rules and regulations issued thereunder. USDA believes that the orders no longer meet the needs of growers and handlers. The results of recent grower referenda and experience with the industries support order terminations.

Sections 916.64 and 917.61 of the orders provide that USDA shall terminate or suspend any or all provisions of the orders when a finding is made that the orders do not tend to effectuate the declared policy of the Act. Furthermore, section 608c(16)(A) of the Act provides that USDA shall terminate or suspend the operation of any order whenever the order or provision thereof obstructs or does not tend to effectuate the declared policy of the Act. An additional provision requires that Congress be notified not later than 60 days before the date the orders would be terminated.

Although marketing order requirements are applied to handlers, the costs of such requirements are often passed on to growers. Termination of the orders, and the resulting regulatory relaxation, would therefore be expected to reduce costs for both handlers and growers.

As an alternative to this rule, AMS considered not terminating the nectarine and peach order provisions. In that case, the industries could have recommended further refinements to the orders and the handling regulations in order to meet current marketing needs. However, such changes made to the programs over the last several years have failed to improve the programs enough to warrant continuing grower support. Therefore, this alternative was rejected, and AMS recommended that the programs be terminated.

This proposed rule is intended to solicit input and other available information from interested parties on whether the orders should be terminated. USDA will evaluate all available information prior to making a final determination on this matter.

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. 0581–0189, Generic Fruit Crops. Termination of the reporting requirements under the orders would reduce the reporting and recordkeeping burden on California nectarine and peach handlers by 339.45 hours, and should further reduce industry expenses. Since handlers would no longer be required to file forms with the Committee, this proposed rule would thus not impose any additional reporting or recordkeeping requirements on either small or large entities.

On February 25, 2011, AMS published a notice and request for comments regarding the request for OMB approval of a new information collection for nectarine and peach handlers (76 FR 10555). Five new forms were proposed for the collection of industry information that would have facilitated administration of the orders. Such information collection would have increased the annual reporting burden for industry handlers by 2,878.70 hours. The request for OMB approval of the new information collection has been withdrawn.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The grower referendum was well publicized in the production area, and referendum ballots were mailed to all known growers of nectarines and peaches in California. As well, all interested persons have been invited to attend the committees' meetings over the years and participate in discussions regarding the programs developed under the orders. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may

be viewed at: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Based on the foregoing, and pursuant to section 608c(16)(A) of the Act and §§ 916.64 and 917.61 of the orders, USDA is proposing termination of the orders. Upon termination of the orders, trustees would be appointed to conclude and liquidate the affairs of the committees, and would continue in that capacity until discharged by USDA. In addition, USDA would notify Congress 60 days in advance of termination pursuant to section 608c(16)(A) of the Act.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because (1) growers did not support continuance of the order in the recent referenda, (2) USDA announced its intent to terminate the orders through a press release issued March 25, 2011, and (3) all nectarine and peach handling regulations have been suspended. All written comments timely received will be considered before a final determination is made on this matter.

#### 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 chapter IX is proposed to be amended as follows:

#### **PART 916—[REMOVED]**

1. Under the authority of 7 U.S.C. 601–674, 7 CFR part 916 is removed.

#### **PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA**

2. The authority citation for 7 CFR part 917 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

##### **§§ 917.1 through 917.3 [Suspended]**

3. Sections 917.1 through 917.3 are suspended indefinitely.

##### **§ 917.4 [Amended]**

4. In § 917.4, lift the suspension of January 1, 2007 (71 FR 41351); remove paragraphs (a) and (b); redesignate

paragraph (c) as paragraph (a); and suspend the section indefinitely.

##### **§ 917.5 [Amended]**

5. In § 917.5, remove the second sentence and suspend the section indefinitely.

##### **§ 917.6 [Amended]**

6. In § 917.6, remove the words “That for peaches, packing or causing the fruit to be packed also constitutes handling; Provided further,” and suspend the section indefinitely.

##### **§ 917.7 [Suspended]**

7. Section 917.7 is suspended indefinitely.

##### **§ 917.8 [Removed]**

8. Remove § 917.8.

##### **§ 917.9 [Suspended]**

9. Section 917.9 is suspended indefinitely.

##### **§§ 917.11 through 917.14 [Suspended]**

10. Sections 917.11 through 917.14 are suspended indefinitely.

##### **§ 917.15 [Amended]**

11. In § 917.15, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “§§ 917.21 through 917.22,” and add in their place the words “§ 917.21,” and suspend the section indefinitely.

##### **§§ 917.16 through 917.19 [Suspended]**

12. Sections 917.16 through 917.19 are suspended indefinitely.

13. In § 917.20, lift the suspension of April 4, 1994 (59 FR 10055), and revise the section to read as follows, and suspend the section indefinitely:

##### **§ 917.20 Designation of members of commodity committees.**

There is hereby established a Pear Commodity Committee consisting of 13 members. Each commodity committee may be increased by one public member nominated by the respective commodity committee and selected by the Secretary. The members of each said committee shall be selected biennially for a term ending on the last day of February of odd numbered years, and such members shall serve until their respective successors are selected and have qualified. The members of each commodity committee shall be selected in accordance with the provisions of § 917.25.

##### **§ 917.22 [Removed]**

14. Remove § 917.22.

15. In § 917.24, lift the suspensions of April 4, 1994 (59 FR 10055), and February 21, 2007 (72 FR 7821), revise the section, and suspend the section

indefinitely. The revision reads as follows:

##### **§ 917.24 Procedure for nominating members of various commodity committees.**

(a) The Control Committee shall hold or cause to be held not later than February 15 for pears of each odd numbered year a meeting or meetings of the growers of the fruits in each representation area set forth in § 917.21. These meetings shall be supervised by the Control Committee, which shall prescribe such procedures as shall be reasonable and fair to all persons concerned.

(b) With respect to each commodity committee, only growers of the particular fruit who are present at such nomination meetings or represented at such meetings by duly authorized employees may participate in the nomination and election of nominees for commodity committee members and alternates. Each such grower, including employees of such grower, shall be entitled to cast but one vote for each position to be filled for the representation area in which he produces such fruit.

(c) A particular grower, including employees of such growers, shall be eligible for membership as principle or alternate to fill only one position on a commodity committee. A grower nominated for membership on the Pear Commodity Committee must have produced at least 51 percent of the pears shipped by him during the previous fiscal period, or he must represent an organization which produced at least 51 percent of the pears shipped by it during such period.

##### **§ 917.25 [Amended]**

16. In § 917.25, lift the suspension of January 1, 2007 (71 FR 41352), remove the paragraph (a) designation and remove paragraph (b), and suspend the section indefinitely.

##### **§ 917.26 [Amended]**

17. In § 917.26, lift the suspension of April 4, 1994 (59 FR 10055), remove the references “§§ 917.21 and 917.22” and add in their place the reference “§ 917.21,” and suspend the section indefinitely.

##### **§ 917.27 [Suspended]**

18. Section 917.27 is suspended indefinitely.

##### **§ 917.28 [Amended]**

19. In § 917.28, lift the suspension of April 4, 1994 (59 FR 10055), remove the references “§§ 917.16, 917.21, and 917.22” and add in their place the

references “§§ 917.16 and 917.21,” and suspend the section indefinitely.

**§ 917.29 [Amended]**

20. In § 917.29, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “and of the Peach Commodity Committee” and “each” from paragraph (b), remove the final sentence of paragraph (d), and suspend the section indefinitely.

**§§ 917.30 through 917.33 [Suspended]**

21. Sections 917.30 through 917.33 are suspended indefinitely.

**§ 917.36 [Suspended]**

22. Section 917.36 is suspended indefinitely.

**§ 917.34 [Amended]**

23. In § 917.34, lift the suspension of April 4, 1994 (59 FR 10055), remove the references “§§ 917.21 and 917.22” in paragraph (k) and add in their place the references “§ 917.21,” and suspend the section indefinitely.

**§ 917.35 [Amended]**

24. In § 917.35, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “Peach and” and “each” wherever they appear in paragraph (a), remove the final sentence of paragraph (d), and suspend the section indefinitely.

**§ 917.37 [Amended]**

25. In § 917.37, remove the final three sentences of paragraph (b) and suspend the section indefinitely.

**§§ 917.38 through 917.43 [Suspended]**

26. Sections 917.38 through 917.43 are suspended indefinitely.

**§ 917.45 [Suspended]**

27. Section 917.45 is suspended indefinitely.

**§ 917.50 [Suspended]**

28. Section 917.50 is suspended indefinitely.

**§§ 917.60 through 917.69 [Suspended]**

29. Sections 917.60 through 917.69 are suspended indefinitely.

**§ 917.100 [Amended]**

30. In § 917.100, lift the suspension of April 4, 1994 (59 FR 10055), remove the words “and peaches,” and suspend the section indefinitely.

**§§ 917.101 through 917.115 [Suspended]**

31. Sections 917.101 through 917.115 are suspended indefinitely.

**§ 917.119 [Amended]**

32. In § 917.119, remove paragraph (a), redesignate paragraphs (b) through (e) as paragraphs (a) through (d), and suspend the section indefinitely.

**§ 917.122 [Suspended]**

33. Section 917.122 is suspended indefinitely.

**§ 917.143 [Amended]**

34. In § 917.143, lift the suspension of April 4, 1994 (59 FR 10055); remove the words “and peaches” from paragraph (b) introductory text and from paragraphs (b)(1), (b)(2), and (b)(4); remove the words “and 200 pounds of peaches” from paragraph (b)(3); and suspend the section indefinitely.

**§ 917.150 [Removed]**

35. Remove § 917.150.

**§ 917.258 [Removed]**

36. Remove § 917.258.

**§ 917.259 [Removed]**

37. Remove § 917.259.

**§ 917.442 [Removed]**

38. Remove § 917.442.

**§ 917.459 [Removed]**

39. Remove § 917.459.

Dated: May 24, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–13498 Filed 6–1–11; 8:45 am]

**BILLING CODE 3410–02–P**

## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Chapter III**

**[Docket No. SSA–2011–0042]**

#### **Retrospective Review Under E.O. 13563**

**AGENCY:** Social Security Administration.  
**ACTION:** Request for information.

**SUMMARY:** In accordance with Executive Order (E.O.) 13563, “Improving Regulation and Regulatory Review,” we are announcing that our preliminary plan for retrospective review is available for public comment. We are now requesting comments on the plan.

**DATES:** To be sure that we consider your comments, we must receive them by June 27, 2011.

**ADDRESSES:** Please send your comments to [RegsReview@ssa.gov](mailto:RegsReview@ssa.gov).

**FOR FURTHER INFORMATION CONTACT:** Martin Sussman, Senior Advisor for Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1767. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** On January 18, 2011, the President issued E.O. 13563, “Improving Regulation and Regulatory Review,” which requires Federal agencies to develop a preliminary plan to “periodically review its existing significant regulations” (section 6(b)). On January 25, 2011, we issued a press release and posted information on our Open Government Web site requesting public comment about which of our regulations we should review to ensure they are not outmoded, ineffective, insufficient, or excessively burdensome.

We developed a preliminary plan for retrospective review and submitted it to the Office of Information and Regulatory Affairs in the Office of Management and Budget. The plan focuses on our process for updating the Listing of Impairments (Listings) that we use to evaluate disability claims under titles II and XVI of the Social Security Act (Act). The listings are examples of impairments that we consider severe enough to prevent an adult from doing any gainful activity or that we consider severe enough to result in marked and severe functional limitations for a child seeking SSI payments. The plan also includes two initiatives to reduce paperwork burdens on the public imposed by certain agency regulations.

We have posted the preliminary plan on our Open Government Web site, <http://www.socialsecurity.gov/open/regsreview>, and are now requesting public comments on the plan. Please note that in this notice, we are not requesting comments on the content of the Listings, but rather on the plan itself, which describes our process for updating the Listings. We will carefully review all comments, but we will not to respond to them individually.

Dated: May 25, 2011.

**Dean Landis,**

*Deputy Chief of Staff, Social Security Administration.*

[FR Doc. 2011–13620 Filed 6–1–11; 8:45 am]

**BILLING CODE 4191–02–P**

## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

### **29 CFR Part 1602**

**RIN 3046–AA89**

#### **Recordkeeping and Reporting Requirements Under Title VII, the ADA, and GINA**

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Notice of proposed rulemaking.