

data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

A proposed rule concerning this action was published in the **Federal Register** on March 15, 2002. Copies of the rule were mailed by the board's staff to all Board members and handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. That rule provided a 15-day comment period which ended on April 1, 2002. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT SECTION**.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are aware of this action and are already marketing tart cherries from the 2001–2002 crop. Further, this action was recommended at a public meeting and a fifteen day comment period was provided for public input. No comments were received.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

### PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 930.253 is added to read as follows:

**Note:** This section will not appear in the annual Code of Federal Regulations.

#### § 930.253 Final free and restricted percentages for the 2001–2002 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2001, which shall be free and restricted, respectively, are designated as follows: Free percentage, 59 percent and restricted percentage, 41 percent.

Dated: April 23, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02–10537 Filed 4–29–02; 8:45 am]

**BILLING CODE 3410–02–M**

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 1205

[CN–01–007]

#### Cotton Research and Promotion Program: Procedures for Conduct of Sign-up Period

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

**ACTION:** Final rule.

**SUMMARY:** This rule will amend the rules and regulations regarding the procedures for the conduct of a sign-up period for eligible cotton producers and importers to request a continuance referendum on the 1991 amendments to the Cotton Research and Promotion Order (Order) provided for in the Cotton Research and Promotion Act (Act) amendments of 1990. The amendments will update various dates, name changes, addresses, and make other administrative changes.

**EFFECTIVE DATE:** May 1 2002.

#### FOR FURTHER INFORMATION CONTACT:

Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, Stop 0224, 1400 Independence Ave., SW., Washington, DC 20250–0224, telephone (202) 720–2259, facsimile (202) 690–1718, or email at [whitney.rick@usda.gov](mailto:whitney.rick@usda.gov).

### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, 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 Cotton Research and Promotion Act (7 U.S.C. 2101–2118) provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person 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 requesting a modification of the order or to be exempted there from. Such person 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 person is an inhabitant, or has his or her principal place of business, has jurisdiction to review the USDA's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

#### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic effect of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

There are currently approximately 30,000 producers, and approximately 10,000 importers that are subject to the order. The majority of these producers and importers are small businesses under the criteria established by the Small Business Administration.

Only those eligible persons who are in favor of conducting a referendum would need to participate in the sign-up period. Of the 46,220 total valid ballots received in the 1991 referendum, 27,879, or 60 percent, favored the amendments to the Order, and 18,341, or 40 percent, opposed the amendments to the Order. This rule will provide to those persons who are not in favor of the continuance of the Order

amendments an opportunity to request a continuance referendum.

The eligibility and participation requirements for producers and importers are substantially the same as the rules that established the eligibility and participation requirements for the 1991 referendum, and for the 1997 sign-up period. The January 15 through April 14, 1997 sign-up period did not generate the required number of signatures to hold another referendum. These amendments in this action will update various dates, name changes, addresses and make other miscellaneous changes. However, proxy or power of attorney participation would be prohibited.

The sign-up procedures will not impose a substantial burden or have a significant impact on persons subject to the Order, because participation is not mandatory, not all persons subject to the Order are expected to participate, and USDA will determine producer and importer eligibility. The information collection requirements under the Paperwork Reduction Act are minimal.

#### **Paperwork Reduction Act**

The information collections in this rule will be carried out under the Office of Management and Budget (OMB) Control Number 0581-0093. This rule will not add to the overall burden currently approved by OMB and assigned OMB Control Number 0581-0093 under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This OMB Control Number is referenced in Section 1205.541 of the regulations.

#### **Background**

The 1991 amendments to the Cotton Research and Promotion Order (7 CFR 1205 *et seq.*) were implemented following the July 1991 referendum. The amendments were provided for in the Cotton Research and Promotion Act (7 U.S.C. 2101-2118) amendments of 1990. These amendments provided for: (1) Importer representation on the Cotton Board by an appropriate number of persons, to be determined by USDA, who import cotton or cotton products into the U.S., and whom USDA selects from nominations submitted by importer organizations certified by USDA; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount USDA can be reimbursed for the conduct of a referendum from \$200,000 to \$300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5)

terminating the right of producers to demand a refund of assessments.

On January 14, 2002, USDA issued a determination based on its review, (67 FR 1714), not to conduct a referendum regarding the 1991 amendments to the Order. However, the Act provides that USDA shall nevertheless conduct a referendum at the request of 10 percent or more of the total number of eligible producers and importers that voted in the most recent referendum. The Act provides for a sign-up period during which eligible cotton producers and importers may request that USDA conduct a referendum on continuation of the 1991 amendments to the Order. Accordingly, USDA will provide all eligible Upland cotton producers and importers an opportunity to request a continuance referendum regarding the 1991 amendments to the Order.

The sign-up period will be provided for all eligible producers and importers. Eligible cotton producers would be provided the opportunity to sign-up to request a continuance referendum in person at the county FSA office where their farm is located. If the producers' land is in more than one county, the producer shall sign-up at the county office where FSA administratively maintains and processes the producer's farm records. Producers who choose not to visit the county FSA office in person may request a sign-up form from the same office.

USDA will mail sign-up information, including a written request form, to all known, eligible, cotton importers. Importers who favor the conduct of a continuance referendum would return their signed request forms to USDA, FSA, ORAS, Attention: Phil Brockman, PO Box 23278, Washington, DC 20026-3278.

Importers who do not receive a request form in the mail by June 3, 2002, and who meet the eligibility requirements to participate in the sign-up, may submit a written, signed, request for a continuance referendum. Such request must be accompanied by a copy of the U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 2001. Requests and supporting documentation must be mailed to USDA, FSA, ORAS, Attention: Phil Brockman, PO Box 23278, Washington, DC 20026-3278.

The sign-up period will be from June 3, 2002 through August 30, 2002. Producer and importer forms shall only be counted if received by USDA during the stated sign-up period.

Section 8(c)2 of the Act provides that if USDA determines, based on the results of the sign-up, that 10 percent or more of the total number of eligible

producers and importers that voted in the most recent 1991 referendum (i.e., 4,622) request a continuance referendum on the 1991 amendments, a referendum will be held within 12 months after the end of the sign-up period. In counting such requests, however, not more than 20 percent may be from producers from any one state or from importers of cotton. For example, when counting the requests, the AMS Cotton Program would determine the total number of valid requests from all cotton-producing states and from importers. Not more than 20 percent of the total requests will be counted from any one state or from importers toward reaching the 10 percent for 4,622 total signatures required to call for a referendum. If USDA determines that 10 percent or more of the number of producers and importers who voted in the most recent referendum favor a continuance referendum, a referendum will be held.

This rule amends the procedures for the conduct of the current sign-up period. The current rules and regulations provide for sections on definitions, supervision of the sign-up period, eligibility, participation in the sign-up period, counting requests, reporting results and instructions and forms. The Administrator designated all divisions in AMS as programs on September 18, 1997. Hence, this rule has name, position title, address changes as well as other miscellaneous changes.

The term Cotton Division is changed to Cotton Program. The term Director is replaced by Deputy Administrator. In § 1205.18 the term Producer is further defined to ensure that all producers that planted cotton during 2001 will be eligible to participate in the sign-up period. In §§ 1205.12 and 1205.26 the words *de minimis* assessment have been replaced with similar meaning language. In §§ 1205.20, 1205.26, and 1205.27 calendar year 1995 would change to calendar year 2001. In § 1205.26 the term limited partnership has been added. In §§ 1205.27, 1205.28, and 1205.29 sign-up period conduct dates, FSA reporting dates, and mailing addresses have been updated. In § 1205.26 a new subsection (g) is added to prohibit proxy or power of attorney participation. Section 1205.27 (c) that addresses producer participation in the sign-up period, is revised to reflect current Farm Service Agency procedures.

A proposed rule with a request for comments was published in the **Federal Register** on March 18, 2002 (67 FR 11947). Two comments were received in response to the proposal. The first

comment was from a trade association that represents importers. The commenter requested that USDA take steps to ensure that the notice of sign-up be received by the appropriate person for each importer, and that each importer know what the cotton assessment is and how much it paid.

USDA is not making any changes in response to this comment. USDA will mail a notice of sign-up to each importer that appears on the records of the United States Customs Service as having paid an assessment on cotton and products containing cotton at the time of import. Such records do not reflect a person's name within an importer organization that has been assigned duties associated with the Cotton Research and Promotion Act (Act). It is the responsibility of each importer to ensure that the notice of sign-up is routed to the person within the organization who has been assigned such duties. Moreover, it is also the responsibility of each importer to know what the cotton assessment is and how much it paid at the time of import. USDA will include a cover letter with each notice of sign-up it mails to importers. The letter will advise each importer of the opportunity to request a referendum on continuation of the 1990 amendments to the Act, enumerate what the amendments are, advise each importer where the enclosed form to request a referendum should be mailed, and the date by which USDA must receive the form in order for it to be counted.

The second comment was received by USDA's Farm Service Agency (FSA). FSA will be conducting the sign-up process for USDA. It requested minor changes in order to help facilitate the sign-up process, and correct inaccurate references to FSA officials.

Accordingly, the following changes are being made in this final rule. The reporting dates in paragraph (c) of § 1205.29 for state FSA offices and ORAS are amended to allow sufficient time for each office to report the results of the sign-up. Specifically, the reporting date for state FSA offices is changed from September 10, 2002 to September 17, 2002. The reporting date for ORAS is changed from September 17, 2002 to September 24, 2002. We also are amending the references in the supplementary information and regulatory text to FSA official William A. Brown. In § 1205.27(b) FSA official Phil Brockman will be substituted for Mr. Brown. Section 1205.28 incorrectly referred an FSA ORAS official as the Deputy Administrator. We are amending this section by replacing Deputy Administrator with Director. Finally,

the supplementary information stated that producers could request a sign-up form by mail in lieu of personally appearing at their county FSA office. In the interest of clarity, producers may also request a sign-up form in any other manner.

Pursuant to 5 U.S.C. 533, it is found that good cause exists for not postponing the effective date of this rule until thirty-days after publication in the **Federal Register** because: (1) The Department has determined that June 3 through August 30, 2002, are the preferable dates of the sign-up period; (2) it is consistent with the intent of the Act; (3) interested persons have been provided an opportunity to submit written comments concerning the amendments to the sign-up procedures; and (4) the amendments merely update various dates, name changes, addresses and make other miscellaneous. Eligibility and participation requirements are substantially the same that were used in previous referenda and a sign-up period.

This rule amends the subpart to established procedures for use during the sign-up period, and these procedures will be in effect only for the duration of the sign-up period. Accordingly, this rule is adopted as final with the following changes.

#### List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is amended as follows:

#### PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for part 1205 continues to read as follows:

**Authority:** 7 U.S.C. 2101–2118.

2. In § 1205.12, the last sentence is revised to read as follows:

##### § 1205.12 Cotton.

\* \* \* The term *cotton* does not include imported cotton for which the assessment is less than the value of \$2.00 per line item entry as established by regulations.

3. Section 1205.18 is revised to read as follows:

##### § 1205.18 Producer.

The term *producer* means any person who shares in a cotton crop, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper,

that planted the cotton during the representative period.

4. Section 1205.20 is revised to read as follows:

##### § 1205.20 Representative period.

The term *representative period* means the 2001 calendar year.

5. In § 1205.26, paragraphs (a)(1), (a)(2), and (d) are revised and a new paragraph (g) is added to read as follows:

##### § 1205.26 Eligibility.

\* \* \* \* \*

(a) \* \* \*

(1) Any person who was engaged in the production of Upland cotton during calendar year 2001; and

(2) Any person who was an importer of Upland cotton and imported Upland cotton in excess of the value of \$2.00 per line item entry during calendar year 2001.

\* \* \* \* \*

(d) An officer or authorized representative of a qualified corporation, association, or limited partnership may submit a request on behalf of that corporation, association, or limited partnership.

\* \* \* \* \*

(g) Participation in the sign-up by proxy or power of attorney is not authorized.

6. Section 1205.27 is revised to read as follows:

##### § 1205.27 Participation in the sign-up period.

The sign-up period will be from June 3, 2002, through August 30, 2002. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by August 30, 2002.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers in the county that it serves during the representative period, and shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, USDA shall mail a request form to each known, eligible, cotton importer. Importers who wish to request a referendum and who do not receive a request form in the mail by June 3, 2002, may participate in the sign-up period by submitting a signed, written request for a continuance referendum, along with a copy of a U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 2001. Importers must

submit their requests and supporting documents to USDA, FSA, ORAS, Attention: Phil Brockman, PO Box 23278, Washington, DC 20026-3278. All requests and supporting documents must be received by the appropriate FSA office by August 30, 2002.

(c) Each person on the county FSA office lists may participate in the sign-up period. Eligible producers must date and sign their name on the "County FSA Office Sign-up Sheet." A person whose name does not appear on the county FSA office list may participate in the sign-up period. Such person must be identified on FSA-578 during the representative period or provide documentation that demonstrates that the person was a cotton producer during the representative period. Cotton producers not listed on the FSA-578 shall submit at least one sales receipt for cotton they planted during the representative period. Cotton producers must make requests to the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make request at the county office where FSA administratively maintains and processes the producer's farm records. It is the responsibility of the person to provide the information needed by the county FSA office to determine eligibility. It is not the responsibility of the county FSA office to obtain this information. If any person whose name does not appear on the county FSA office list fails to provide at least one sales receipt for the cotton they produced during the representative period, the county FSA office shall determine that such person is ineligible to participate in the sign-up period, and shall note ineligible in the remarks section next to the person's name on the county FSA office sign-up sheet. In lieu of personally appearing at a county FSA office, eligible producers may request a sign-up form from the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make the request for the sign-up form at the county office where FSA administratively maintains and processes the producer's farm records. Such request must be accompanied by a copy of at least one sales receipt for cotton they produced during the representative period. The appropriate FSA office must receive all completed forms and supporting documentation by August 30, 2002.

7. In § 1205.28, the first sentence is revised to read as follows:

#### **§ 1205.28 Counting.**

County FSA offices and FSA, Director for Operations Review and Analysis Staff (ORAS), shall begin counting requests no later than September 3, 2002. \* \* \*

8. Section 1205.29 is revised to read as follows:

#### **§ 1205.29 Reporting results.**

(a) Each county FSA office shall prepare and transmit to the state FSA office, by September 10, 2002, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) ORAS shall prepare, by September 10, 2002, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by September 17, 2002, forward all county reports to ORAS. By September 24, 2002, ORAS shall forward its report of the total number of eligible producers and importers that requested a continuance referendum, through the sign-up period, to the Deputy Administrator, Cotton Program, AMS, Stop 0224, 1400 Independence Ave., SW, Washington, DC 20250-0224.

(d) The Chief of the Research and Promotion Staff, Cotton Program, shall prepare a report of the requests received, including the number of eligible persons who requested the conduct of a referendum, and the number of ineligible persons who made requests, to the Deputy Administrator of the Cotton Program, and shall maintain one copy of the report where it will be available for public inspection for a period of 5 years following the end of the sign-up period.

(e) The Deputy Administrator of the Cotton Program shall prepare and submit to the Secretary a report of the results of the sign-up period. The Secretary will conduct a referendum if requested by 10 percent or more of the number of cotton producers and importers voting in the most recent (July 1991) referendum, but not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers in any one state or from importers of cotton. The Secretary shall announce the results of the sign-up period in a separate notice in the **Federal Register**.

Dated: April 25, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02-10676 Filed 4-26-02; 11:17 am]

**BILLING CODE 3410-02-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

**[Airspace Docket No. 99-AWP-24]**

#### **Modification of Class E Airspace; Daggett, CA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace area at Daggett, CA. The establishment of an Area navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) RNAV (GPS) Runway (RWY) 22 SIAP and a RNAV (GPS) RWY 26 SIAP to Daggett Airport, Barstow-Daggett Airport, CA has made this action necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the RNAV (GPS) RWY 22 SIAP and RNAV (GPS) 26 SIAP to Barstow-Daggett Airport. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules operations at Barstow-Daggett Airport, Daggett, CA.

**EFFECTIVE DATE:** 0901 UTC June 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jeri Carson, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 1500 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6611.

#### **SUPPLEMENTARY INFORMATION:**

##### **History**

On February 6, 2002, the FAA proposed to amend 14 CFR part 71 by modifying the Class E airspace area at Daggett, CA (67 FR 5528). Additional controlled airspace extending upward from 700 feet or more above the surface is needed to contain aircraft executing the RNAV (GPS) RWY 22 SIAP and RNAV (GPS) 26 SIAP to Barstow-Daggett Airport. This action will provide adequate controlled airspace for aircraft executing the RNAV (GPS) RWY