

# Rules and Regulations

Federal Register

Vol. 72, No. 9

Tuesday, January 16, 2007

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1209

[Docket No. AMS-FV-06-0218, FV-05-710]

#### Mushroom Promotion, Research, and Consumer Information Order; Section 610 Review

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

**ACTION:** Confirmation of regulations.

**SUMMARY:** This document summarizes the results of an Agricultural Marketing Service (AMS) review of the Mushroom Promotion, Research and Consumer Information Program under the criteria contained in section 610 of the Regulatory Flexibility Act. Based on this review, AMS has determined that the Mushroom Promotion, Research, and Consumer Information Order should be continued without change.

**ADDRESSES:** Interested persons may obtain a copy of the review. Requests for copies should be sent to Deborah S. Simmons, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 0634-S, 1400 Independence Avenue, SW., Washington, DC 20250-0244 or [deborah.simmons@usda.gov](mailto:deborah.simmons@usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Sonia N. Jimenez, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 0634-S, Washington, DC 20250-0244; telephone: (888) 720-9917 fax: (202) 205-2800; or e-mail: [sonia.jimenez@usda.gov](mailto:sonia.jimenez@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act), (7 U.S.C. 6101 *et seq.*) authorized the Mushroom Promotion, Research, and Consumer Information Program

(Program) which is industry-operated and funded, with oversight by USDA. The Program's objective is to carry out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information. It is designed to strengthen the mushroom industry's position in the marketplace, maintain and expand existing markets and uses for mushrooms, develop new markets and uses for mushrooms, and to carry out programs, plans, and projects designed to provide maximum benefits to the mushroom industry.

The Program became effective on January 8, 1993, when the Mushroom Promotion, Research, and Consumer Information Order (7 CFR part 1209) (Order) was issued. Assessments began in 1993 at the rate of 0.0025 cents per pound and have fluctuated from 0.0010 to 0.0045 cents per pound. The current rate is 0.0035 cents per pound.

Assessments under this Program are used to fund retail category management, research concerning nutritional attributes of mushrooms, foodservice training, and industry information, and to enable the Mushroom Council (Council) to exercise its duties in accordance with the Order.

The program is administered by the Council which is composed of producers and may include importers, all of whom are appointed by the Secretary of Agriculture from nominations submitted by eligible producers or importers. Producer membership on the Council is based upon mushroom production within each of the four pre-designated geographic regions within the U.S. and a fifth region representing importers (when imports, on average, equal or exceed 35,000,000 pounds of mushrooms annually). All members serve terms of three years.

AMS published its plan to review the Mushroom Promotion, Research, and Consumer Information Order, (conducted under the Act), under criteria contained in Section 610 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) in the **Federal Register** on February 18, 1999. The plan was updated in the **Federal Register** on August 14, 2003 (68 FR 48574), and updated again on March 24, 2006 (71 FR 14827).

A notice of review and request for written comments was published in the

**Federal Register** on December 14, 2005 (70 FR 73945). One comment was received, opposing the program in general. However, as discussed herein, AMS has determined that the Order should be continued without change.

The purpose of the review was to determine whether the Mushroom Promotion, Research, and Consumer Information Order should be continued without change, amended, or rescinded (consistent with the objectives of the Mushroom Promotion, Research, and Consumer Information Act of 1990) to minimize the impacts on small entities. In conducting this review, AMS considered whether there was a continued need for the Order; the nature of complaints or comments received from the public concerning the Order; the complexity of the Order; the extent to which the Order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local regulations; and the length of time since the Order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the Order.

Currently there are 125 producers and 19 importers covered under the Order. AMS provides Federal oversight of the Mushroom research and promotion program. The Order is not unduly complex, and AMS has not identified regulations that duplicate, overlap, or conflict with the Order. Over the years, the Order has been amended to change the number of members in each district and to add a fifth district for representation by importers. The AMS has not received complaints about the Order.

Based upon the review, AMS has determined that the Order should be continued without change. AMS plans to continue working with the mushroom industry in maintaining an effective program.

Dated: January 10, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7-427 Filed 1-12-07; 8:45 am]

**BILLING CODE 3410-02-P**