

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1206**

[Doc. # FV-02-707-PR2]

RIN 0581-AC05

Mango Promotion, Research, and Information Order; Referendum Order**AGENCY:** Agricultural Marketing Service, Agriculture.**ACTION:** Proposed rule and referendum order.

SUMMARY: This proposed rule would establish an industry-funded promotion, research, and information program for fresh mangos. The proposed program—the Mango Promotion, Research, and Information Order (Order)—was submitted to the Department (the Department or USDA) by the Fresh Produce Association of the Americas (Association). Under the proposed Order, first handlers and importers of 500,000 or more pounds of mangos would pay an assessment of ½ cent per pound on domestic and imported mangos to the National Mango Promotion Board (Board). The Board would be appointed by the Department to conduct a program of research and promotion, industry information, and consumer information needed for the maintenance, expansion, and development of domestic markets for fresh mangos. The Order would be implemented if it is approved by a majority of the eligible first handlers and importers voting in a referendum. A separate final rule on referendum procedures is being published in this issue of the **Federal Register**.

DATES: To be eligible to vote, mango importers and first handlers must have imported or handled 500,000 or more pounds of mangos during the representative period from January 1 through December 31, 2002. The voting period for the referendum will be from November 10, 2003 through November 28, 2003. Ballots must be received by the referendum agents no later than the close of business, Eastern daylight-standard time, November 28, 2003, to be counted.

FOR FURTHER INFORMATION CONTACT: Kathie M. Birdsell, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 2535-S, Washington, DC 20250-0244, telephone 888-720-9917 (toll free), fax 202-205-2800, e-mail kathie.birdsell@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed Order is issued under the

Commodity Promotion, Research, and Information Act of 1996 (Act) (7 U.S.C. 7411-7425; Public Law 104-127; 110 Stat. 1029), or any amendments thereto.

Prior Documents: A proposed rule was published in the **Federal Register** on August 26, 2002 [67 FR 54908], with a 60-day comment period. In addition, the USDA published a proposed rule on the referendum procedures in the **Federal Register** on August 26, 2002 [67 FR 54920], also with a 60-day comment period.

Question and Answer Overview*Why Is USDA Proposing a Program for Mangos?*

The Department received a proposal from the Association for this program. The Department issued a proposed rule to obtain comments on the proposal and to obtain information on the potential impact of the program on the mango industry before developing a final proposed program and conducting a referendum on it.

What Is the Purpose of the Mango Program?

The purpose of the program is to maintain, expand, and develop domestic markets for fresh mangos.

How Will the Mango Program Be Implemented?

A referendum will be conducted on the proposed Order. The Order will be implemented if it is approved by a majority of the eligible voters in the referendum.

When Will the Referendum Be Held?

The voting period for the referendum will be November 10, 2003 through November 28, 2003.

Who Will Be Covered by the Program?

Domestic first handlers and importers of 500,000 or more pounds of mangos per calendar year will pay assessments under the program. Domestic mangos that are exported will not be assessed under the Order.

Who Will Sit on the Board?

Under the proposal, there will be a 20-member Board consisting of eight U.S. importers, one U.S. first handler, two U.S. producers, seven foreign producers, and two non-voting U.S. wholesalers and/or retailers of mangos. The chairperson shall reside in the United States.

How Will Members of the Board Be Selected?

The U.S. importers, first handlers, and producers would be nominated by U.S. importers, first handlers, and producers,

respectively. Foreign producers would be nominated by foreign producer associations. The U.S. wholesalers and/or retailers would be nominated by the Board. Two names must be submitted for each position. From the names submitted, the Department will appoint the members.

If the Mango Program Is Implemented and There Are Concerns About How It Is Operating, Can the Program Be Terminated?

Yes. After the program is implemented, the Department will conduct a referendum to determine whether the mango industry continues to support the program: (1) Every 5 years after the program is in effect, (2) at the request of the Board established under the proposed Order, or (3) when requested by 10 percent or more of first handlers and importers covered by the proposed Order. In addition, the Department may conduct a referendum at any time. If a majority of the first handlers and importers voting in the referendum do not favor continuation, the program will be terminated.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect.

Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act, a person subject to the Order may file a petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and requesting a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts