This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 900

[Docket No. AMS–FV–14–0072; FV14–900–2 PR]

Clarification of United States Antitrust Laws, Immunity, and Liability Under Marketing Order Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on an amendment to the general regulations for federal fruit, vegetable, and specialty crop marketing agreements and marketing orders that would accentuate the applicability of U.S. antitrust laws to marketing order programs' domestic and foreign activities. This action would also advise marketing order board and committee members and personnel of the restrictions, limitations, and liabilities imposed by those laws.

DATES: Comments must be received by June 5, 2015.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Geronimo.Quinones@ams.usda.gov or Michelle.Sharrow@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposal is issued under the general regulations for federal marketing agreements and orders (7 CFR part 900), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” This action would add a new § 900.202 (Restrictions applicable to Committee personnel) under “Subpart—Miscellaneous Regulations” to accentuate the applicability of U.S. antitrust laws to marketing order program activities.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175. This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed 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.

Federal marketing order boards and committees have always been subject to U.S. antitrust laws. These boards and committees work with USDA in administering marketing order programs which, among other things, authorizes them, with approval of the Secretary, to establish and promote a program’s domestic and foreign marketing activities. The Act immunizes board and committee members and employees from prosecution under U.S. antitrust laws so long as their conduct is authorized by the Act or provisions of a marketing order. This proposal is intended to accentuate the applicability of U.S. antitrust laws to marketing order board and committee members and personnel in light of changing global marketing and production trends as well as to advise boards and committees of the restrictions, limitations, and liabilities of those laws. Under these laws, Committee members and employees may not engage in any unauthorized agreement or concerted action that unreasonably restrains United States domestic or foreign commerce. Failing to adhere to antitrust laws may lead to prosecution under the antitrust laws by the United States Department of Justice and/or suit by injured private persons seeking treble damages, and may also result in expulsion of members from the Committee or termination of employment with the Committee.

Initial Regulatory Flexibility Act

Pursuant to 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 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 businesses 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.
There are approximately 1,090
handlers who are subject to regulation
under the 28 federal marketing order
programs and approximately 33,100
producers in the regulated areas. Small
agricultural service firms are defined by
the Small Business Administration
(SBA) as those having annual receipts of
less than $7,000,000, and small
agricultural producers are defined as
those having annual receipts of less than
$750,000 (13 CFR 121.201). USDA
estimates that many of these handlers
and producers may be classified as
small entities. This rule would
accentuate the applicability of U.S.
antitrust laws to marketing order
programs’ domestic and foreign
activities. This action would also advise
marketing order board and committee
members and personnel of the
restrictions, limitations, and liabilities
imposed by those laws.

Paperwork Reduction Act
This rule contains no information
collection or recordkeeping
requirements under the Paperwork
3520).
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.
USDA has not identified any relevant
Federal rules that duplicate, overlap, or
conflict with this proposed rule.
AMS has discussed the changes to the
regulations with all marketing order
board and committee staff that it
oversees. Moreover, AMS conducted
refresher training on antitrust laws for
marketing order board and committee
staff and officers at the Marketing Order
Management Conference on September
23–24, 2014. 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: www.ams.usda.gov/
MarketingOrdersSmallBusinessGuide.
Any questions about the compliance
guide should be sent to Jeffrey Smutny
at the previously mentioned address in
the FOR FURTHER INFORMATION CONTACT
section.
A 30-day comment period is provided
to allow interested persons to respond
to this proposal. Thirty days is deemed
appropriate because federal marketing
order boards and committees have
always been subject to U.S. antitrust
laws. AMS is simply updating the
regulations to reemphasize the
applicability of U.S. antitrust laws in
light of global marketing and production
trends. All written comments timely
received will be considered before a
final determination is made on this
matter.

List of Subjects in 7 CFR Part 900
Administrative practice and
procedure, Freedom of information,
Marketing agreements, Reporting and
recordkeeping requirements.

For the reasons set forth above, 7 CFR
part 900 is proposed to be amended as
follows:

PART 900—GENERAL REGULATIONS

1. The authority citation for 7 CFR
part 900 continues to read as follows:
7401.

Subpart—Miscellaneous Regulations

2. The authority citation for Subpart—
Miscellaneous Regulations continues to
read as follows:
Authority: Sec. 10, 48 Stat. 37, as
3. Add new section 900.202 to read as
follows:

§900.202 Restrictions applicable to
Committee personnel.

Members and employees of Federal
marketing order boards and committees
are immune from prosecution under the
United States antitrust laws only insofar
as their conduct in administering the
respective marketing order is authorized
by the Agricultural Marketing
Agreement Act of 1937, 7 U.S.C. 601–
674, or the provisions of the respective
order. Under the antitrust laws,
Committee members and employees
may not engage in any unauthorized
agreement or concerted action that
unreasonably restrains United States
domestic or foreign commerce. For
example, Committee members and
employees have no authority to
participate, either directly or indirectly,
whether on an informal or formal,
written or oral basis, in any bilateral or
international undertaking or agreement
with any competing foreign producer or
seller or with any foreign government,
agency, or instrumentality acting on
behalf of competing foreign producers
or sellers to (a) raise, fix, stabilize, or set
a floor for commodity prices, or (b) limit
the quantity or quality of commodity
imported into or exported from the
United States. Participation in any such
unauthorized agreement or joint
undertaking could result in prosecution
under the antitrust laws by the United
States Department of Justice and/or suit
by injured private persons seeking treble
damages, and could also result in
expulsion of members from the
Committee or termination of
employment with the Committee.

Rex A. Barnes,
Associate Administrator, Agricultural
Marketing Service.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–132634–14]

RIN 1545–BM43

Qualifying Income From Activities of
Publicly Traded Partnerships With
Respect to Minerals or Natural
Resources

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains
proposed regulations under section
7704(d)(1)(E) of the Internal Revenue
Code (Code) relating to qualifying
income from exploration, development,
mining or production, processing,
refining, transportation, and marketing
of minerals or natural resources. The
proposed regulations affect publicly
traded partnerships and their partners.

DATES: Comments and requests for a
public hearing must be received by
August 4, 2015.

ADDRESSES: Send submissions to:
CC:PA:LPD:PR (REG–132634–14), Room
5203, Internal Revenue Service, P.O.
Box 7604, Ben Franklin Station,
Washington, DC 20044. Submissions
may be hand-delivered Monday through
Friday between the hours of 8 a.m. and
4 p.m. to CC:PA:LPD:PR (REG–132634–
14), Courier’s Desk, Internal Revenue
Service, 1111 Constitution Avenue NW.,
Washington, DC, or sent electronically,
via the Federal eRulemaking Portal at
www.regulations.gov (IRS REG–132634–
14).

FOR FURTHER INFORMATION CONTACT:
Concerning the proposed regulations,
Caroline E. Hay at (202) 317–5279;
concerning the submissions of
comments and requests for a public