

simple majority of the blueberry volume represented by eligible producers and importers voting in a referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of blueberries.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under this subpart; and

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

#### **§ 1218.73 Proceedings after termination.**

(a) Upon the termination of this subpart, the USABC shall recommend not more than three of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the USABC. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the USABC, including claims for any funds unpaid or property not delivered, or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the USABC under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the USABC and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary and appropriate to vest in such persons title and right to all funds, property and claims vested in the USABC or the trustees pursuant to the Order.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the USABC and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to the blueberry producer organizations in the interest of continuing blueberry promotion, research, and information programs.

#### **§ 1218.74 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder; or

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

#### **§ 1218.75 Personal liability.**

No member or alternate member of the USABC shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or alternate, except for acts of dishonesty or willful misconduct.

#### **§ 1218.76 Separability.**

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

#### **§ 1218.77 Amendments.**

Amendments to this subpart may be proposed from time to time by the USABC or by any interested person affected by the provisions of the Act, including the Secretary.

#### **§ 1218.78 OMB control numbers.**

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, is OMB control number 0581-0093, except for the USABC nominee background statement form which is assigned OMB control number 0505-001.

Dated: July 16, 1999.

**Enrique E. Figueroa,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 99-18691 Filed 7-21-99; 8:45 am]

BILLING CODE 3410-02-P

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 1218**

[FV-99-702-PR]

#### **Blueberry Promotion, Research, and Information Order; Referendum Procedures**

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The purpose of this rule is to establish procedures which the Department of Agriculture (USDA or the Department) will use in conducting a referendum to determine whether the issuance of the proposed Blueberry Promotion, Research, and Information Order (Order) is favored by the blueberry industry. Approval will be determined by producers and importers voting for approval who represent a majority of the volume of blueberries. These procedures would also be used for any subsequent referendum under the Order, if it is approved in the initial referendum. The proposal is being published in a separate document. This proposed program would be implemented under the Commodity Promotion, Research, and Information Act of 1996 (Act).

**DATES:** Comments must be received by September 20, 1999.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535-S, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours.

Comments may also be submitted electronically to: [malinda.farmer@usda.gov](mailto:malinda.farmer@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: [www.ams.usda.gov/fv/rpdocketlist.htm](http://www.ams.usda.gov/fv/rpdocketlist.htm).

Pursuant to the Paperwork Reduction Act (PRA), send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information

collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:**

Oliver L. Flake, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535-S, Washington, D.C. 20250-0244; telephone (202) 720-5976 or fax (202) 205-2800.

**SUPPLEMENTARY INFORMATION:**

A referendum will be conducted among eligible blueberry producers and importers to determine whether the issuance of the proposed Blueberry Promotion, Research, and Information Order (Order) (7 CFR Part 1218) is favored by those who would pay assessments under the program. Approval will be determined by persons voting for approval who represent a majority of the volume of blueberries. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) [Pub. L. 104-427, 7 U.S.C. 7401-7425]. It would cover domestic and imported cultivated blueberries (hereinafter called blueberries). A proposed Order is being published separately in the **Federal Register**.

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have 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 the Secretary of Agriculture (Secretary) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law, and requesting a modification of the order or an exemption from the order. Any petition filed challenging the order, any provision of the order or any obligation imposed in connection with the order, shall be filed within two years after the effective date of the order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall be the jurisdiction to review a final ruling on

the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of entry of the Secretary's final ruling.

**Executive Order 12866**

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

**Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency is required to examine the impact of the proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

The Act, which authorizes the Secretary to consider industry proposals for generic programs of promotion, research, and information for agricultural commodities, became effective on April 4, 1996. The Act provides for alternatives within the terms of a variety of provisions.

Paragraph (e) of Section 518 of the Act provides three options for determining industry approval of a new research and promotion program: (1) By a majority of those voting; (2) by a majority of the volume of the agricultural commodity voted in the referendum; or (3) by a majority of those persons voting who also represent a majority of the volume of the agricultural commodity voted in the referendum. In addition, section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. The North American Blueberry Council, Inc. (proponent), has recommended that the Secretary conduct a referendum in which approval of the Order would be based on producers and importers voting for approval who represent a majority of the volume of blueberries. The proponent also has recommended that a referendum be conducted prior to the proposed Order going into effect.

This proposed rule would establish the procedures under which producers and importers may vote on whether they want a blueberry promotion, research, and information program to be implemented. Blueberry producers and importers of 2,000 pounds or more of blueberries annually would be eligible to vote. The proposed order provides for an exemption from assessments for producers and importers of less than 2,000 pounds of fresh and processed blueberries. This proposal would add a

new subpart which establishes procedures to conduct an initial and future referenda. The proposed subpart covers definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

There are approximately 1,287 producers, 200 first handlers, 120 importers, and 4 exporters of blueberries who would be subject to the program. It is estimated that 1,132 producers and 75 importers would be eligible to vote in the first referendum. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) [13 CFR 121.601]. Most importers and first handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than \$5 million, and small agricultural producers are defined as those having annual receipts of not more than \$500,000 annually.

According to USDA's National Agricultural Statistics Service (NASS), total production of cultivated blueberries was 172.9 million pounds in 1997, up 35 percent from the 1996 output. Approximately 70.2 million pounds of the total were utilized for fresh market sale and 99.4 million pounds were used for processing (primarily frozen). Blueberries are grown in 35 states. Commercial production operations are located in Michigan (44 percent), New Jersey (19 percent), Oregon (12 percent), Georgia (9 percent), North Carolina (5 percent), Washington (5 percent), Indiana and Florida (2 percent each), and all other states (2 percent). Farm value for the 1997 cultivated blueberry crop was \$141 million, compared with \$113.6 million a year earlier.

U.S. frozen blueberry per capita consumption has been declining rapidly in recent years, decreasing from 0.38 pounds in 1996 to 0.33 pounds in 1997. From calendar year 1991 through 1995, U.S. per capita consumption of frozen blueberries averaged 0.43 pounds.

The United States exported 6.3 million pounds of fresh cultivated blueberries in 1997, valued at \$7.9 million. Canada is the principal destination for U.S. exports—accounting for nearly 79 percent of the total in 1997. Other key markets included Switzerland (7 percent), the United Kingdom (5 percent), and Germany (3 percent). The remaining export volume of fresh cultivated blueberries primarily went to other European and Asian countries.

U.S. exports of frozen cultivated blueberries totaled 22.1 million pounds

in 1997 and were valued at \$9.9 million. The largest U.S. export market is Canada, accounting for 90 percent of the total quantity in 1997. Japan was the second largest U.S. market for frozen cultivated blueberries, accounting for 8 percent of the total. The remaining 2 percent of U.S. exports were sent mainly to other Asian and European countries.

In 1997, the United States imported 13.9 million pounds of fresh cultivated blueberries worth \$10.8 million. Imports from Canada alone accounted for 89 percent of the total. Other important fresh cultivated blueberry import sources were Chile with 9 percent of the total and New Zealand with 2 percent. Small amounts were also imported from Mexico and Honduras.

In 1997, total imports of frozen cultivated blueberries were 9.8 million pounds and were valued at \$8.5 million. The vast majority of U.S. frozen blueberry imports (about 96 percent) came from Canada in 1997. U.S. imports of frozen cultivated blueberries from Chile represented 2 percent of the total, while Mexico accounted for 1 percent of the total. The rest of the 1997 import volume originated from the Netherlands, Costa Rica and Colombia.

This proposed rule provides the procedures under which blueberry producers and importers may vote on whether they want the Order to be implemented. In accordance with the provisions of the Act, subsequent referenda may be conducted, and it is anticipated that the proposed procedures would apply. There are approximately 1132 producers and 75 importers who will be eligible to vote in the first referendum.

USDA will keep these individuals informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process so that trade associations and related industry media can be kept informed.

Voting in the referendum is optional. However, if producers and importers choose to vote, the burden of voting would be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

The information collection requirements contained in this proposed rule are designed to minimize the burden on producers and importers. This rule provides for a ballot to be used by eligible producers and importers to vote in the referendum. The estimated annual cost of providing the information by an estimated 1,132 producers (1,287–

155 exempt producers) would be \$556.00 or \$.50 per producer and for an estimated 75 importers (120–45 exempt importers) would be \$37.50 or \$.50 per importer.

The Secretary considered requiring eligible voters to vote in person at various USDA offices across the country. The Secretary also considered electronic voting, but the use of computers is not universal, current technology is not reliable enough to ensure that electronic ballots would be received in a readable format, and technology is insufficient at this time to provide sufficient safeguards of voters' confidentiality. Conducting the referendum from one central location by mail ballot would be more cost-effective and reliable. The Department will provide easy access to information for potential voters through a toll-free telephone line. The Department will also accept ballots sent by facsimile (fax) machine. A pilot of this method was conducted during a recent referendum for another program. A fax machine was dedicated to the receipt of ballots.

There are no federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities. However, in order to obtain all of the data necessary for a comprehensive analysis, we invite comments concerning the potential effects of this proposed rule. In particular, we are interested in obtaining more information on the number of small entities that may incur benefits or costs from the implementation of this proposed rule and information on the expected benefits or costs.

#### Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulation (5 CFR 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, has been submitted to OMB for approval.

*Title:* National Research, Promotion, and Consumer Information Programs.

*OMB Number:* 0581–0093.

*Expiration Date of Approval:* November 30, 2000.

*Type of Request:* Revision of a currently approved information collection for research and promotion programs.

*Abstract:* The information collection requirements in this request are essential to carry out the intent of the Act. The burden associated with the ballot is as follows:

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.25 hours per response for each producer and importer.

*Respondents:* Producers and importers.

*Estimated Number of Respondents:* 1207.

*Estimated Number of Responses per Respondent:* 1 every 5 years (0.2).

*Estimated Total Annual Burden on Respondents:* 1,208 hours.

The estimated annual cost of providing the information by an estimated 1,132 producers (1,287–155 exempt producers) would be \$556.00 or \$.50 per producer and for an estimated 75 importers (120–45 exempt importers) would be \$37.50 or \$.50 per importer.

The ballot will be added to the other information collections approved for use under OMB Number 0581–0093.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–0093, the docket number, and the date and page number of this issue of the **Federal Register**. Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and within the time frames specified above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

## Background

The Act authorizes the Secretary, under generic authority, to establish agricultural commodity research and promotion orders. The North American Blueberry Council, Inc. (proponent) has requested the establishment of a Blueberry Promotion, Research, and Information Order (Order) pursuant to the Act. The proposed Order would provide for the development and financing of an effective and coordinated program of promotion, research, and information for fresh and processed blueberries. The program would be funded by an assessment levied on producers (to be collected by handlers) and importers (to be collected by the U.S. Customs Service at time of entry into the United States) at a rate of \$12 per ton. In the proposed Order, blueberries are defined as cultivated blueberries grown in or imported into the United States of the genus *Vaccinium* *Corymbosum* and *Ashei*, including the northern highbush, southern highbush, and rabbit eye varieties, and excluding the lowbush (native) blueberry *Vaccinium* *Angustifolium*.

Assessments would be used to pay for promotion, research, and consumer information; administration, maintenance, and functioning of the U.S.A. Blueberry Council; and expenses incurred by the Secretary in implementing and administering the Order, including referendum costs.

Section 518 of the Act requires that a referendum be conducted among eligible blueberry producers and importers to determine whether they favor the Order. In addition, section 518 of the Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. According to a proposed rule that is published separately in this issue of the **Federal Register**, the Order would become effective if it is approved during the initial referendum, which will be held before the program is implemented. Approval will be determined by producers and importers voting for approval who represent a majority of the volume of blueberries. Producers and importers of 2,000 pounds or more of blueberries annually will be eligible to vote.

This proposed rule establishes the procedures under which producers and importers may vote on whether they want the blueberry promotion, research, and information program to be implemented. There are approximately 1207 eligible voters.

This proposed rule would add a new subpart which would establish procedures to be used in this and future referenda.

The subpart covers definitions, voting, instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

All written comments received in response to this rule by the date specified will be considered prior to finalizing this action. We encourage the industry to pay particular attention to the definitions to be sure that they are appropriate for the blueberry industry.

### List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Blueberries, Consumer information, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations be amended as follows:

### PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for part 1218 continues to read as follows:

**Authority:** 7 U.S.C. 7401–7425.

2. Subpart B is added to proposed part 1218 to read as follows:

#### Subpart B—Procedure for the Conduct of Referenda in Connection with the Blueberry Promotion, Research, and Information Order

Sec.	
1218.100	General.
1218.101	Definitions.
1218.102	Voting.
1218.103	Instructions.
1218.104	Subagents.
1218.105	Ballots.
1218.106	Referendum report.
1218.107	Confidential information.

#### Subpart B—Procedure for the Conduct of Referenda in Connection with the Blueberry Promotion, Research, and Information Order

##### § 1218.100 General.

Referenda to determine whether eligible blueberry producers and importers favor the issuance, amendment, suspension, or termination of the Blueberry Promotion, Research, and Information Order shall be conducted in accordance with this subpart.

##### § 1218.101 Definitions.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of

the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Blueberries* means cultivated blueberries grown in or imported into the United States of the genus *Vaccinium* *Corymbosum* and *Ashei*, including the northern highbush, southern highbush, and rabbit eye varieties, and excluding the lowbush (native) blueberry *Vaccinium* *Angustifolium*.

(c) *Eligible importer* means any person who imported 2,000 pounds or more of fresh or processed blueberries, that are identified by the numbers 0810.40.0028 and 0811.90.2028, respectively, in the Harmonized Tariff Schedule of the United States or any other numbers used to identify fresh and frozen blueberries. Importation occurs when commodities originating outside the United States are entered or withdrawn from the U.S. Customs Service for consumption in the United States. Included are persons who hold title to foreign-produced blueberries immediately upon release by the U.S. Customs Service, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of blueberries from the U.S. Customs Service when such blueberries are entered or withdrawn for consumption in the United States.

(d) *Eligible producer* means any person who produced 2,000 pounds or more of blueberries in the United States during the representative period who:

(1) Owns, or shares the ownership and risk of loss of, the crop;

(2) Rents blueberry production facilities and equipment resulting in the ownership of all or a portion of the blueberries produced;

(3) Owns blueberry production facilities and equipment but does not manage them and, as compensation, obtains the ownership of a portion of the blueberries produced; or

(4) Is a party in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce blueberries who share the risk of loss and receive a share of the blueberries produced. No other acquisition of legal title to blueberries shall be deemed to result in persons becoming eligible producers.

(e) *Order* means the Blueberry Promotion, Research, and Information Order.

(f) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term

"partnership" includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a blueberry farm as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So-called "joint ventures" wherein one or more parties to an agreement, informal or otherwise, contributed land and others contributed capital, labor, management, or other services, or any variation of such contributions by two or more parties.

(g) *Processed blueberries* means blueberries which have been frozen, dried, pureed, or made into juice.

(h) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(i) *Representative period* means the period designated by the Secretary.

(j) *United States* means collectively the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

#### § 1218.102 Voting.

(a) Each person who is an eligible producer or an eligible importer, as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast only one ballot in the referendum. However, each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce blueberries, in which more than one of the parties is a producer, shall be entitled to cast one ballot in the referendum covering only such producer's share of the ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate producer or importer, or an administrator, executor, or trustee or an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that such individual is an officer or

employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail or by facsimile, as instructed by the Secretary.

#### § 1218.103 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter.

(c) Give reasonable public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible producers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party

authorized to monitor the referendum process.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

#### § 1218.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

#### § 1218.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

#### § 1218.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

#### § 1218.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Act and the voting list shall be held confidential and shall not be disclosed.

Dated: July 16, 1999.

**Robert C. Keeney, Deputy Administrator,**

*Fruit and Vegetable Programs*

[FR Doc. 99-18690 Filed 7-21-99; 8:45 am]

BILLING CODE 3410-02-P