

# Proposed Rules

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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 1210

[Document Number AMS-FV-11-0031]

#### Watermelon Research and Promotion Plan; Importer Membership Requirements and Referendum Order

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

**ACTION:** Proposed rule and referendum order.

**SUMMARY:** This proposed rule would amend the Watermelon Research and Promotion Plan (Plan) importer membership requirements to serve on the National Watermelon Promotion Board (Board). The Board recommended eliminating the requirement that an importer import more than 50 percent of the total volume handled and imported in order to qualify as an importer member. This change would allow for additional parties to qualify as an importer member. This proposed rule also announces that the U.S. Department of Agriculture (USDA or Department) will conduct a referendum among eligible producers, handlers, and importers of watermelons to determine whether they favor the amendment to the Plan.

**DATES:** The voting period for the referendum will be from January 13, 2014 through January 27, 2014. To be eligible to vote, persons must have produced, handled, or imported watermelons during the representative period from January 1, through December 31, 2012, and must currently be a producer, handler, or importer of watermelons. Additionally, producers must be engaged in the growing of 10 acres or more of watermelons and importers must import 150,000 or more pounds of watermelons annually. Importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursements of assessments during

the representative period are eligible to vote in the referendum. The referendum will be conducted by mail ballot. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m., Eastern daylight-standard time, January 27, 2014, to be counted.

**ADDRESSES:** Copies of the proposed amendment may be obtained from: Referendum Agent, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0244, Room 1406-S, Washington, DC 20250-0244; telephone: (888) 720-9917 (toll free); fax: (202) 205-2800; or it can be viewed at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Jeanette Palmer, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue SW., Room 1406-S, Washington, DC 20250-0244; telephone: (888) 720-9917 (toll free); Direct line: 202-720-9915; facsimile: (202) 205-2800; or electronic mail: [Jeanette.Palmer@ams.usda.gov](mailto:Jeanette.Palmer@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Watermelon Research and Promotion Plan [7 CFR part 1210]. The Plan is authorized under the Watermelon Research and Promotion Act (Act) [7 U.S.C. 4901-4916].

A proposed rule was published in the **Federal Register** on February 13, 2013 [78 FR 10104], with a thirty-day comment period which closed on March 15, 2013.

Pursuant to section 1655 of the Act, a referendum will be conducted among watermelon producers, handlers, and importers to determine whether they favor amending the Plan to eliminate the requirement that an importer import more than 50 percent of the total volume handled and imported in order to qualify as an importer member.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1 through December 31, 2012. Section 1653(b) of the Act requires that the amendment be approved by a majority of watermelon producers, handlers, and importers voting in the referendum. Only producers of 10 acres or more of watermelons, watermelon handlers, and importers of 150,000 or more pounds of watermelons annually,

and importers who import less than 150,000 pounds of watermelons annually and who did not apply for and receive reimbursements of assessments during the representative period will be eligible to vote in the referendum. The referendum shall be conducted by mail ballot from January 13, 2014 through January 27, 2014. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m., Eastern daylight-standard time, January 27, 2014, to be counted.

#### Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as a "non-significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has waived the review process.

#### Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review revealed that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

#### Executive Order 12988

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect.

The Act allows producers, producer-packers, handlers, and importers to file a written petition with the Secretary of Agriculture (Secretary) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with the law. In any petition, the person may request a modification of the Plan or an

exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of the Secretary. If the petitioner disagrees with the Secretary's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district where the petitioner resides or conducts business.

#### **Regulatory Flexibility Act and Paperwork Reduction Act**

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], AMS has examined the economic impact of this rule on the small producers, handlers, and importers that would be affected by this rule. 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.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than \$7 million. Under these definitions, the majority of the producers, handlers, and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000 pounds of watermelons per year are also exempt.

USDA's National Agricultural Statistics Service (NASS) data for the 2012 crop year indicates that about 306 hundredweight (cwt.) of watermelons were produced per acre within the United States. The 2012 grower price published by NASS was \$13.30 per hundredweight. Thus, the value of watermelon production per acre in 2012 averaged about \$4,070 (306 cwt. x \$13.30). At that average price, a producer would have to farm over 184 acres to receive an annual income from watermelons of \$750,000 (\$750,000 divided by \$4,070 per acre equals 184). Accordingly, as previously noted, a majority of the watermelon producers would be classified as small businesses.

Based on the Board's data, using an average of the free on board (f.o.b.) price of \$.181 per pound and the number of pounds handled in 2012, none of the watermelon handlers had receipts over the \$7 million threshold. Therefore, the watermelon handlers would all be

considered small businesses. A handler would have to ship over 38 million pounds of watermelons to be considered large (38,674,033 times \$.181 f.o.b. equals \$7 million).

According to the Board, there are approximately 950 producers, 230 handlers, and 137 importers who are required to pay assessments under the program.

Based on the watermelon import assessments received for the year 2012, the United States imported watermelons worth over \$237 million. The largest volume of watermelon imports came from Mexico which accounted for 86 percent of the total volume in 2012. Other suppliers of imported watermelons are Guatemala at 9 percent and Honduras at 2 percent. The remaining 3 percent of imported watermelons came from Costa Rica, Nicaragua, Canada, Dominican Republic, and Panama.

Based on the U.S. Customs and Border Protection (Customs) and Board data, it is estimated that there are about 201 importers of watermelon. Not all of these importers are required to pay assessments under the program. Using 2012 Customs data, all of the importers import less than \$7.0 million worth of watermelon annually. Therefore, all of the watermelon importers would be considered small entities.

The Board's audit records show import assessments for the calendar years 2010, 2011, and 2012 at \$746,043, \$855,890, and \$824,897 respectively. Based on this data, the three-year average of import assessments for watermelon totals \$808,943 (\$2,426,830 divided by 3). This represents approximately 30 percent of the total assessments paid to the Board. Currently, the Board membership distribution consists of 14 producers, 14 handlers, 8 importers, and 1 public member. A final rule that increased the number of importers on the Board was published in the July 18, 2011, **Federal Register** [76 FR 42009].

The Watermelon Research and Promotion Improvement Act of 1993 amended the Watermelon Research and Promotion Act by adding importer members to the Board, among other things. At that time the industry recommended that, in order to qualify as an importer member on the Board, an individual that both handles and imports watermelons may vote for importer members and serve as an importer member if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. A final rule was published in the **Federal Register** on February 28, 1995 [60 FR

10795] containing this and other amendments to the program.

At the time of this amendment there was a more clear division of roles among producers, handlers, and importers. In other words, those individuals that imported watermelons did not cross over into handling or producing watermelons as much as they do now. Since then, the industry has become more consolidated and of the 137 importers required to pay assessments, 42 also handle watermelons and would be eligible to serve as either handler or importer member.

At its February 26, 2011, meeting, the Board voted unanimously, to modify the importer eligibility requirements to serve on the Board. The Board is having difficulty finding eligible importers to serve on the Board because of the requirement in the Plan that a person who both imports and handles watermelons will be counted as an importer only if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. The Board voted to eliminate the 50 percent or more requirement of the combined total volume of watermelons handled and imported by a person to allow more individuals to become eligible to serve on the Board as an importer. Individuals that both handle and import would be allowed to decide which part of the industry they would prefer to represent regardless of the volume handled or imported. The industry believes that this change would increase the importer representation on the Board by allowing more individuals to be eligible to serve. This action may also increase diversity on the Board.

The Board considered a second alternative to change the 50 percent or more of the combined total volume of watermelons handled and imported by the person to 25 percent or more of the combined total volume of watermelons handled and imported by the person. However, the Board did not choose this option because they wanted to allow more importers to be eligible for nomination on the Board and found this purpose better served if they eliminated the percentage requirement altogether. By eliminating the percentage requirement for the importer member, this will allow for smaller importer businesses to become eligible to serve as an importer member on the Board.

Section 1655 of the Act provides for referenda to be conducted to ascertain approval of changes to the Plan prior to going into effect. In order to implement the amendment to the Plan, the Secretary must determine that the

amendment to the Plan has been approved by a majority of the producers, handlers, and importers of watermelons voting in the referendum. Accordingly, before this amendment is made to the Plan, a referendum will be conducted among eligible producers, handlers, and importers of watermelons.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously and assigned OMB number 0581-0093, except that the background form, has been approved under OMB number 0505-0001.

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 programs.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Regulatory Flexibility Analysis regarding the impact of this amendment to the Plan on small entities, and we did not receive any comments on the analysis. Additionally, the estimated numbers in the RFA represents the total universe of watermelon producers, handlers, and importers and not those who may be eligible to vote in the referendum.

### Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reports. Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs and Border Protection. This action would not have any impact on the assessment rates paid by producers, handlers, and importers.

Membership on the Board consists of two producers and two handlers for each of the seven districts established by the Plan, at least one importer, and one public member. The Board currently consists of 37 members: 14 producers, 14 handlers, 8 importers, and 1 public member. A final rule to increase the number of importers on the Board was published in the July 18, 2011, **Federal Register** [76 FR 42009].

The Watermelon Research and Promotion Improvement Act of 1993 amended the Watermelon Research and Promotion Act by adding importer members to the Board, among other things. At that time the industry recommended that, in order to qualify as an importer member on the Board, an individual that both handles and imports watermelons may vote for importer members and serve as an importer member if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. A final rule was published in the **Federal Register** on February 28, 1995 [60 FR 10795] containing this and other amendments to the program. At the time of this amendment there was a more clear division of roles among producers, handlers, and importers. In other words, those individuals that imported watermelons did not cross over into handling or producing watermelons as much as they do now. Since then, the industry has become more consolidated and of the 137 importers required to pay assessments 42 also handle watermelons and would be eligible to serve as either a handler or importer member.

At its February 26, 2011, meeting, the Board voted unanimously to modify the importer eligibility requirements to serve on the Board. The Board is having difficulty finding eligible importers to serve on the Board because of the requirement in the Plan that a person who both imports and handles watermelon will be counted as an importer if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. The Board voted to eliminate the 50 percent or more requirement of the combined total volume of watermelons handled and imported by a person to allow more individuals to become eligible to serve on the Board as an importer. Individuals that both handle and import would be allowed to decide which part of the industry they would prefer to represent regardless of the volume handled or imported. The industry believes that this change would increase the importer representation on the Board by allowing more individuals to be eligible to serve.

This action may also increase diversity on the Board.

Accordingly, the proposed rule would amend sections 1210.321(d) and 1210.404(g) which reference importer eligibility requirements to be nominated to the Board. These sections would be revised to specify that a person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

Also, sections 1210.363(b) and 1210.602(a) as published in the proposed rule have been modified to remove unnecessary language. These sections pertain to referenda; the language removed does not affect the way the referendum will be conducted or how the results will be determined. Thus, the changes to sections 1210.363(b) and 1210.602(a) will not be voted on in the referendum.

For the changes to sections 1210.321(d) and 1210.404(g) of the Plan to become effective, the proposed amendment must be approved by a majority of eligible producers, handlers, and importers of watermelons voting in a referendum. Only producers of 10 acres or more of watermelons; watermelon handlers, and importers of 150,000 or more pounds of watermelons annually, and importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursements of assessments during the representative period will be eligible to vote in the referendum. Accordingly, a referendum will be conducted among eligible producers, handlers, and importers of watermelons. The referendum will be conducted by mail ballot from January 13, 2014 through January 27, 2014. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m., Eastern daylight-standard time, January 27, 2014, to be counted.

A thirty-day comment period was provided to allow interested persons to respond to this proposal which was published in the **Federal Register** on February 13, 2013 [78 FR 10104]. Copies of the rule were made available through the Internet by the Department and the Office of the Federal Register. Additionally, the Board prepared a PowerPoint presentation on the proposed rule that was distributed through electronic mail to several watermelon State associations (Florida, North Carolina, South Carolina, Delaware, Maryland, Indiana and Illinois) and sent to the producers, handlers, and importers in its database. Also, the proposed rule was available on the Board's Web site and it was

published on a news Web site. The comment period ended March 13, 2013. Sixteen comments were received by the deadline.

### Summary of Comments

Of the 16 comments received, 14 comments supported the proposed amendment. One comment was opposed to the watermelon program in general and was not within the scope of this rulemaking action. One comment discussed how the amendments were presented and made recommendations on writing the regulation so it is easier for the public to understand.

In general, commenters supporting the amendment stated the change would allow more importers to be eligible to serve on the Board. One commenter stated this would allow the Board to fill vacant seats on the Board with qualified individuals who are interested in serving the watermelon industry.

One commenter who supported the importer requirement change recommended adding a clause that the eligible importer should not import less than 10 percent of their total combined volume imported and handled. As previously mentioned, the Board considered reducing the 50 percent requirement to a lower level such as 25 percent, so that persons who import and handle watermelons could serve on the Board as an importer if 25 percent of their combined volume was imported. However, the Board wants to allow more individuals to serve on the Board and thus recommended eliminating the percentage requirement altogether. No changes have been made to the proposed rule based on this comment.

Another commenter who supported the proposed change suggested adding a clause to prevent a board member who imports less than 10 percent of watermelons to use their position to steer or direct the research and promotion activities to suit their personal needs. There are 37 Board members, and each member may vote on all budgets, marketing, research, and promotional activities as described in sections 1210.325 and 1210.328 of the Plan. Further, any action of the Board requires the concurring votes of a majority of those present and voting. No changes have been made to the proposed rule based on this comment.

As mentioned above, one commenter recommended writing the regulation so that it is easier for the public to understand. The Department reviewed the recommendations and adopted some of them as discussed in the following paragraphs.

The commenter suggested that section 1210.321(d) of the Plan regarding

nominations and selections be revised to be more informative and easier to understand. The Department agrees and has simplified the last portion of this section as published in the proposed rule to specify that all importers may participate in the nomination process. A person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

The commenter also suggested that section 1210.363(b) of the Plan which discusses suspension and termination be clarified. The Department agrees and has simplified the section to remove unnecessary language. The language removed does not affect the way the referendum will be conducted or how the results will be determined. Thus, the change to section 1210.363(b) will not be voted on in the referendum.

The commenter also recommended revising the language of section 1210.404(g) of the Plan which discussed the importer member nomination and selection. The Department agrees the language should be clarified and has revised the language to specify that a person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

The commenter also recommended revising section 1210.602(a) of the Plan regarding voting in a referendum. The Department agrees and has simplified the section to remove language that is not necessary. The language removed does not affect the way the referendum will be conducted or how the results will be determined. Thus, the change to section 1210.602(b) will not be voted on in the referendum.

The commenter suggested changing the headings in sections 1210.321, 1210.363, 1210.404 and 1210.602 to a question format to be more useful and easier for the public to understand. Regulations for research and promotion programs are used primarily by a sector of the public who are industry members familiar with the program or persons who administer the program's day-to-day operations. Each program begins with an index that lists the sections of each program for ease of reference. Industry members and program administrators have found the format useful. Changing the format in the manner suggested would cause confusion. Thus, no changes to the proposed rule have been made based on this comment.

The commenter also made suggestions to sections that were not included in the first proposed rule published in

February 2013. The commenter recommended replacing the term "Secretary" with the name of the office or official who takes action on the program. Section 1210.301 of the Plan defines Secretary to mean not only the Secretary of Agriculture, but also any person to whom the Secretary has delegated authority. Names of offices and titles change periodically within the Department and it would be inefficient and costly to engage in rulemaking to revise the terms in the Plan each time. Thus, no changes have been made to the proposed rule based on this comment.

The commenter also recommended using the term "marketer" and defining it within the regulation to avoid repeating the terms "producer," "handler," and "importer." The commenter believes using the term marketer would be easier for the reader to understand. Producers, handlers, and importers perform different roles in the industry which are defined in sections 1210.306, 1210.307, and 1210.314 respectively in the Plan. Producers grow watermelons. Handlers perform functions like grading, packing, or processing and placing watermelons in channels of commerce. Importers import watermelons into the United States. In the field of agriculture, marketers are typically persons who sell product into channels of trade. Producers, handlers and importers do not all market watermelons, and categorizing all three as marketers would likely create confusion in the industry. The terms are also consistent with the Watermelon Research and Promotion Act. Thus, no changes have been made to the proposed rule based on this comment.

For the proposed amendments to the Plan and to become effective, they must be approved by a majority of the eligible producers, handlers, and importers voting in the referendum. The proposed changes to the regulations will be made effective, if the proposed amendments to the Plan are approved in referendum.

While the proposal set forth below has not received the approval of USDA, it is determined that the proposed amendment is consistent with and would effectuate the purposes of the Act.

### Referendum Order

It is hereby directed that a referendum be conducted among eligible watermelon producers, handlers, and importers to determine whether they favor amending the Watermelon Research and Promotion Plan to eliminate the requirement that an importer import more than 50 percent of the total volume handled and imported in order to qualify as an importer

member to serve on the National Watermelon Promotion Board.

The referendum shall be conducted from January 13, 2014 through January 27, 2014. The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known eligible watermelon producers, handlers, and importers prior to the first day of the voting period. Only producers of 10 acres or more of watermelon; watermelon handlers, and importers of 150,000 or more pounds of watermelons annually, and importers who import less than 150,000 pounds of watermelons annually and did not apply for and receive reimbursements of assessments annually during the representative period will be eligible to vote in the referendum. Any eligible watermelon producers, handlers, and importers who do not receive a ballot should contact the referendum agent no later than one week before the end of the voting period. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m., Eastern daylight-standard time, January 27, 2014, to be counted.

Jeanette Palmer, Sonia Jimenez and Marlene Betts, PED, FVP, AMS, USDA, Stop 0244, Room 1406-S, 1400 Independence Avenue SW., Washington, DC 20250-0244, are designated as the referendum agents of the Department to conduct this referendum. The referendum procedures specified in sections 1210.600 through 1210.607 of the Plan, which were issued pursuant to the Act, shall be used to conduct the referendum.

#### List of Subjects in 7 CFR Part 1210

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

For the reasons set forth in the preamble, part 1210, chapter XI of title 7 is proposed to be amended as follows:

#### PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

**Authority:** 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

■ 2. In § 1210.321, paragraph (d) is revised to read as follows:

##### § 1210.321 Nomination and selection.

\* \* \* \* \*

(d) Nominations for importer positions that become vacant may be made by mail ballot, nomination conventions, or by other means

prescribed by the Secretary. The Board shall provide notice of such vacancies and the nomination process to all importers through press releases and any other available means as well as direct mailing to known importers. All importers may participate in the nomination process. A person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

\* \* \* \* \*

■ 3. In § 1210.363, paragraph (b) is revised to read as follows:

##### § 1210.363 Suspension or termination.

\* \* \* \* \*

(b) The Secretary may conduct a referendum at any time and shall hold a referendum on request of the Board or at least 10 percent of the combined total of the watermelon producers, handlers, and importers to determine if watermelon producers, handlers, and importers favor termination or suspension of this Plan. The Secretary shall suspend or terminate this Plan at the end of the marketing year whenever the Secretary determines that the suspension or termination is favored by a majority of the watermelon producers, handlers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons and who produced, handled, or imported more than 50 percent of the combined total of the volume of watermelons produced, handled, or imported by those producers, handlers, and importers voting in the referendum. Any such referendum shall be conducted by mail ballot.

\* \* \* \* \*

■ 4. In § 1210.404, paragraph (g) is revised to read as follows:

##### § 1210.404 Importer member nomination and selection.

\* \* \* \* \*

(g) A person who both imports and handles watermelons may participate in the nomination process and serve on the Board as either an importer or handler, but not both.

■ 5. In § 1210.602, paragraph (a) is revised to read as follows:

##### § 1210.602 Voting.

(a) Each person who is an eligible producer, handler, or importer as defined in this subpart, at the time of the referendum and who also was a producer, handler, or importer during the representative period, shall be entitled to one vote in the referendum:

*Provided*, That each producer in a landlord-tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to produce watermelons in which more than one of the parties is a producer, shall be entitled to one vote in the referendum covering only that producer's share of the ownership.

\* \* \* \* \*

Dated: October 21, 2013.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2013–25155 Filed 10–28–13; 8:45 am]

BILLING CODE 3410–02–P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 51

[NRC–2012–0246]

RIN 3150–AJ20

### Proposed Waste Confidence Rule and Draft Generic Environmental Impact Statement

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Rescheduling of public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has rescheduled to November 12 the Waste Confidence public meeting it initially planned to hold in Oak Brook, Illinois, on October 24, 2013. The NRC postponed this meeting as a result of lapsed appropriations. The rescheduled meeting will allow the NRC to receive public comments on proposed amendments to the NRC's regulations pertaining to the environmental impacts of the continued storage of spent nuclear fuel beyond a reactor's licensed life for operation and prior to ultimate disposal (the proposed Waste Confidence rule) and the draft generic environmental impact statement (DGEIS), NUREG–2157, "Waste Confidence Generic Environmental Impact Statement," that forms a regulatory basis for the proposed amendments. The meeting is open to the public, and anyone may attend. The NRC will publish notices for other postponed and rescheduled Waste Confidence public meetings as soon as practicable.

**DATES:** The NRC plans to hold its rescheduled Waste Confidence public meeting in Oak Brook, Illinois, on November 12, 2013. This document contains specific meeting information in the **SUPPLEMENTARY INFORMATION** section.