grapefruit was determined by dividing the total recommended budget by the quantity of assessable oranges and grapefruit estimated at 9.5 million 7/10 bushel cartons for the 1999–2000 fiscal period. The $0.12 rate should provide $1,140,000 in assessment income. The additional $8,850 will come from the Committee's reserve and interest income.

A review of historical information and preliminary information pertaining to the 1999–2000 fiscal period indicates that the f.o.b. price for the 1999–2000 season could range from $4.75 and $12.50 per 7/10 bushel carton of oranges and grapefruit depending upon the fruit variety, size, and quality. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total pack-out revenue could range between .96 and 2.5 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Texas orange and grapefruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 8, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Texas orange and grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on July 19, 1999 (64 FR 38597). Copies of the proposed rule were also mailed or sent via facsimile to all Texas orange and grapefruit handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. A 20-day comment period ending August 9, 1999, was provided for interested persons to respond to the proposal. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 1999–2000 fiscal period began on August 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable oranges and grapefruit handled during such fiscal period, and handlers will begin harvesting their fruit in early September. The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Further, handlers are aware of this rule which was unanimously recommended by the Committee at a public meeting. Also, a 20-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 906.235 is revised to read as follows:

§ 906.235 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.12 per 7/10 bushel carton is established for oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

Dated: August 17, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–21673 Filed 8–19–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV98–966–2 IFR]

Tomatoes Grown in Florida; Partial Exemption From the Handling Regulation for Producer Field-Packed Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends a prior interim final rule that changed the handling requirements prescribed under the Florida tomato marketing order (order). The order regulates the handling of tomatoes grown in Florida and is administered locally by the Florida Tomato Committee (committee). The prior interim final rule exempted shipments of producer field-packed tomatoes from container net weight requirements and the requirement that all tomatoes must be packed at registered handler facilities. This rule exempts shipments of certain-sized producer field-packed tomatoes from a maximum size requirement specified in the handling regulation. These changes allow the industry to pack a higher colored, riper tomato to meet the demand of the expanding market for vine-ripe tomatoes. This facilitates the movement of Florida tomatoes and should ultimately improve returns to producers.

DATES: Effective October 10, 1999; comments received by October 19, 1999 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; or George Kelhart, Technical Advisor, Marketing Order Administration

Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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 the Secretary 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 the Secretary 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 the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Under the order, tomatoes produced in the production area and shipped to fresh market channels outside the regulated area are required to meet grade, size, inspection, and container requirements. These requirements apply during the period October 10 through June 15 each year. Current requirements include a minimum grade of U.S. No. 2 and a minimum size of 2 9/32 inches in diameter. Current pack and container requirements outline the types of information that needs to appear on a container, weight restrictions the packed containers must meet, and that the containers must be packed at registered handler facilities.

Section 966.52 of the order provides authority for the modification, suspension, and termination of regulations. It includes the authority to establish and modify pack and container requirements for tomatoes grown in the defined production area and handled under the order. Section 966.323 of the order's rules and regulations specifies the handling regulation for Florida tomatoes.

This rule amends an interim final rule published in the **Federal Register** on October 13, 1998 (63 FR 54556). That rule, which was based on a unanimous recommendation from the committee made at a meeting on September 11, 1998, changed the handling regulation under the order by defining producer field-packed tomatoes and allowing handlers to ship field-packed tomatoes exempt from net weight requirements. That rule also exempted producer field-packed tomatoes from the requirement that all tomatoes be packed at registered handler facilities. Currently, those tomatoes are subject to all other provisions of the handling regulation, including established grade, size, pack, and inspection requirements. Those tomatoes are also subject to assessments.

This amended interim final rule, which is based on a unanimous recommendation from the committee made at a meeting on May 26, 1999, exempts shipments of certain-sized producer field-packed tomatoes from a maximum diameter requirement specified in the handling regulation. Specifically, field-packed tomatoes designated as size ''6 × 6'' may be larger than 2 27/32 inches in diameter. This rule makes a related change to the labeling requirement for 6 × 6-sized field-packed tomatoes. The field-packed tomato exemption is also revised for clarity.

Producer field-packed tomatoes are tomatoes which at the time of inspection are No. 3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place-packed in new containers in the field by a producer as defined in § 966.150 of the rules and regulations. The tomatoes are then transferred to a registered handler's facility for final preparation for market and for inspection.

Most tomatoes from Florida are packed and shipped at the mature green stage. Shipments of mature green tomatoes represented approximately 88 percent of total fresh shipments during the 1997–98 season. Tomatoes are picked and packed at the mature green stage to facilitate handling. The vast majority of mature green tomatoes are packed using a mechanized process. The tomatoes are brought to the packing house where they are run across sizing equipment, and then are packed in volume fill containers. At the mature green stage, the tomatoes are firm and are able to tolerate the packing process. This process is efficient and facilitates packing in volume.

However, when trying to pack a tomato that is more ripe and mature, the process used to pack mature greens is not as effective. This is because as the tomato begins to ripen it begins to soften. Tomatoes of No. 3 color and above cannot tolerate the rigors of the mechanized handling process. This packing process bruises and damages riper tomatoes, increasing the volume of culls and those that fail inspection for grade.

Under this exemption, producer field-packed tomatoes are only handled once, when such tomatoes are picked and packed in the field. Field-packed tomatoes are not subject to the rigors of a mechanical process. Under this process, the tomatoes are still sized, cleaned, and packed by hand. This process of picking and packing in the field makes it substantially easier to pack a tomato of higher color and ripeness. As per the requirement for all packed tomatoes for shipment outside the regulated area, new boxes must be used. The tomatoes are delivered to a registered handler for final preparation for market. The tomatoes are inspected for grade, size, and proper pack after delivery to the registered handler's facility.

However, since this exemption has been available and growers and handlers have been utilizing it, a problem has emerged. Because the tomatoes are packed in the field, the tomatoes are sized by hand, not using the precision of sizing belts. While field packed tomatoes are successfully meeting minimum size requirements, some lots are having difficulty meeting the maximum size requirements as specified for the 6 × 6 size designation.

Currently, § 966.323(a)(2)(i) specifies that all tomatoes packed by a registered handler must meet a minimum size requirement of 2 9/32 inches in diameter. That section also requires that all such

tomatoes must be sized with proper equipment in one of three specified ranges of diameter. For example, tomatoes designated as ''6 × 7'' must be a minimum of 2 9/32 inches in diameter and a maximum of 2 19/32 inches in diameter. Tomatoes designated as ''6 × 6'' must be a minimum of 2 17/32 inches in diameter and a maximum of 2 27/32 inches in diameter. Tomatoes designated as ''5 × 6'' must be a minimum of 2 25/32 inches in diameter with no maximum size requirement. Finally, to allow for variations incident to proper sizing, not more than a total of 10 percent, by count, of the tomatoes in the lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

Since the handling regulation was changed in October 1998 to exempt field-packed tomatoes from certain handling requirements, some 6 × 6-sized lots have failed inspection due to oversized tomatoes in the pack. As stated above, 6 × 6-sized lots of tomatoes must meet both minimum and maximum size requirements, within specified tolerances. Tomatoes that are run over a sizing belt in a packing house have little difficulty in meeting these requirements. However, producers packing tomatoes in the field must use hand-sizers. It is relatively easy to pick to a minimum size. However, it is much more difficult to pick tomatoes within a range of fractions of an inch.

Presenting a packed lot of tomatoes for inspection, and having it fail is costly. The handler can either find an outlet other than the fresh market for the tomatoes or rework the lot so it passes inspection. In the case of field packed tomatoes, reworking a lot is substantially more difficult. The tomatoes cannot be dumped then run across the machinery again to ensure that they meet inspection, but must be sorted through by hand. This is extremely time-consuming, and because the fruit is ripe, can cause additional bruising. In most cases, it is one or two tomatoes in a box that cause it to fail for size. Thus, the committee met in May 1999 and recommended this change for producer field-packed tomatoes.

The committee recommended that 6 × 6-sized producer field-packed tomatoes be exempt from the 2 27/32 inch maximum diameter requirement specified in § 966.323(a)(2)(i) of the handling regulation. This change will allow for additional oversized tomatoes, without the lot failing for size. While this change does allow for additional larger tomatoes to be included in the 6 × 6 pack, there is still a distinction between it and the 5 × 6. The 6 × 6 pack is an opportunity to sell a smaller tomato. This change provides some additional flexibility to address sizing problems relating to packing in the field. The 5 × 6 tomato is still the premium size, demanding the higher price. For this reason, the vast majority of tomatoes that meet the size requirements for 5 × 6 will continue to be packed in a 5 × 6 container. Also, according to the committee, buyers should not object to oversized fruit in the 6 × 6 pack because they have the option of grading it out for a premium product or passing it on to their customers as a larger tomato at a less expensive price.

The committee also recommended a related change in the labeling requirement specified in § 966.323(a)(2)(iii) of the handling regulation. Currently, that section requires that only ''6 × 7,'' ''6 × 6,'' or ''5 × 6'' be used to indicate the respective size designation on containers of tomatoes. The committee recommended that shipments of 6 × 6-sized producer field-packed tomatoes be marked as ''6 × 6 and larger'' to more accurately reflect the contents of the container which could include 5 × 6-sized tomatoes. The words ''and larger'' will not be required on 5 × 6-sized field-packed tomatoes because that is the largest designated size defined by a minimum diameter and includes all sizes above that minimum.

In evaluating alternatives to this change, such as increasing the percentage tolerance for oversize, it was concluded that the changes provided in this amended interim final rule are the better and more effective way to accomplish the committee's goal. Containers will be marked ''6 × 6 and larger'' which will separate them from the standard 6 × 6 and will tell buyers that the package includes some larger tomatoes. And, as stated earlier, while this does provide for additional larger tomatoes to be packed in a 6 × 6 pack, it should not blur the distinction between a 6 × 6 and 5 × 6.

The committee continues to focus on ways to be competitive, develop new markets, and increase producer returns. The October 1998 changes which added a definition of field-packed tomatoes to the handling regulation, along with certain exemptions for such tomatoes, have provided the industry with more flexibility and additional marketing opportunities. The committee believes that the availability of producer field-packed tomatoes will increase the volume of vine-ripe tomatoes available from Florida. This has been a market that has been expanding and not traditionally served by much volume from the Florida tomato industry. The October 1998 changes have allowed producers to harvest tomatoes that might otherwise have been left in the field. Handlers may be willing to pay a higher price for producer field-packed tomatoes which, when combined with additional tomato sales, should increase returns to producers. The additional exemptions for field-packed tomatoes designated as size 6 × 6 recommended by the committee in May 1999 will provide even more opportunities for the Florida tomato industry to market such tomatoes.

Section 8e of the Act requires that whenever grade, size, quality or maturity requirements are in effect for certain commodities under a domestic marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. However, the Act does not authorize the imposition of pack and container requirements on imports, when such requirements are in effect under a domestic marketing order. Therefore, no change is necessary in the tomato import regulation as a result of this action.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of Florida tomatoes who are subject to regulation under the order and approximately 75 tomato producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000 (13 CFR 121.601).

Based on available industry and committee data, the average annual f.o.b. price for fresh Florida tomatoes during the 1997–98 season was around $9.11 per 25 pound equivalent, and total fresh shipments for the 1997–98 season are estimated at 47.6 million 25 pound equivalent cartons of tomatoes.

Committee data indicates that approximately 20 percent of the Florida handlers handle 80 percent of the total volume shipped outside the regulated area. Based on this information, the shipment information for the 1997–98 season, and the 1997–98 season average price, the majority of handlers would be classified as small entities as defined by the SBA. The majority of producers of Florida tomatoes also may be classified as small entities.

This rule amends a prior interim final rule that changed the handling regulation specified in § 966.323 under the order. The prior interim final rule was published in the **Federal Register** on October 13, 1998 (63 FR 54556). That rule modified § 966.323 by adding a definition for producer field-packed tomatoes, and exempting such tomatoes from container net weight requirements and the requirement that all tomatoes must be packed at registered handler facilities.

In addition, this amended interim final rule exempts shipments of field-packed tomatoes designated as size 6 × 6 from a maximum diameter requirement of 2 27/32 inches specified in § 966.323(a)(2)(i). This rule makes a related change in the labeling requirement specified in § 966.323(a)(2)(iii) whereby shipments of 6 × 6-sized producer field-packed tomatoes must be marked as ''6 × 6 and larger'' to more accurately reflect the contents of the container. Authority for these changes is provided in § 966.52 of the order.

This amendment with its additional flexibility is expected to have a positive impact on affected entities. The committee believes that allowing ripe tomatoes to be place packed in the field has enabled the Florida tomato industry to meet a strong and growing consumer demand for red, mature tomatoes. This has facilitated the movement of Florida tomatoes and helped to improve producer returns.

This rule will provide additional handling flexibility and cost savings. While field packed tomatoes are successfully meeting minimum size requirements, some lots are having difficulty meeting the maximum size requirements as specified for the 6 × 6 size designation. Tomatoes designated as ''6 × 6'' must be a minimum of 2 17/32 inches in diameter and a maximum of 2 27/32 inches in diameter. Tomatoes that are run over a sizing belt in a packing house have little difficulty in meeting these requirements. However, producers packing tomatoes in the field must use hand-sizers. It is relatively easy to pick to a minimum size. However, it is much more difficult to pick tomatoes within a range of fractions of an inch. Presenting a packed lot of tomatoes for inspection, and having it fail is costly. The handler can either find an outlet other than the fresh market for the tomatoes or rework the lot so it passes inspection. In the case of field packed tomatoes, reworking a lot is substantially more difficult. The tomatoes cannot be dumped then run across the machinery again to ensure that they meet inspection, but must be sorted through by hand. This is costly and time-consuming, and because the fruit is ripe, can cause additional bruising. This change will allow for additional oversized tomatoes, without the lot failing for size, providing additional flexibility and reducing reworking costs.

These changes are intended to provide additional flexibility for all those covered under the order. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and producers regardless of their size of operation. These changes have a beneficial impact on producers and handlers since tomato handlers can make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

Regarding alternatives to the recommended action, the committee concluded that providing certain exemptions for field-packed tomatoes would allow the Florida tomato industry to meet a growing consumer demand for vine-ripe tomatoes. In addition, continuing to require 6 × 6-sized field-packed tomatoes to meet a maximum size requirement would discourage producers from packing such fruit because some of the packs would fail inspection. In evaluating alternatives to this change, such as increasing the percentage tolerance for oversize, it was concluded that the changes provided in this amended interim final rule are the better and more effective way to accomplish the committee's goal. Containers will be marked ''6 × 6 and larger'' which will separate them from the standard 6 × 6 and will tell buyers that the package includes some larger tomatoes. And, as stated earlier, while this does provide for additional larger tomatoes to be packed in a 6 × 6 pack, it does not blur the distinction between a 6 × 6 and 5 × 6. Thus, the recommended change was determined to be the most viable course of action.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committee's meetings on September 11, 1998, and May 23, 1999, were widely publicized throughout the tomato industry and all interested persons were invited to attend the meetings and participate in committee deliberations. Like all committee meetings, the September 1998 and May 1999 meetings were public meetings and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

As previously stated, an interim final rule regarding field-packed tomatoes was published in the **Federal Register** on October 13, 1998 (63 FR 54556). A 60-day comment period was provided to allow interested persons to respond to the rule. Copies of the rule were mailed by committee staff to all committee members and tomato handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. Four comments were received regarding the rule. These comments and any submitted regarding this amendment will be addressed in the rule finalizing this action. This interim final rule is effective October 10, 1999. This date is the beginning of the new Florida tomato shipping season.

After consideration of all relevant material presented, including the committee's recommendations and other information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on changes to the handling requirements currently prescribed under the Florida tomato marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect because: (1) These changes relax current requirements; (2) the 1999–2000 Florida tomato season begins October 10; (3) the committee unanimously recommended these changes at public meetings and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§ 966.323 Handling regulation.

* * * * *

(d) *Exemption.* (1) * * * Producer field-packed tomatoes must meet all of the requirements of this section except for the following: the container net weight requirements specified in paragraph (a)(3)(i) of this section; the requirement that each container or lid shall be marked to indicate the designated net weight specified in paragraph (a)(3)(ii) of this section; the requirement that all containers must be packed at registered handler facilities as specified in paragraph (a)(3)(ii) of this section; the requirement that such tomatoes designated as size 6 × 6 must meet the maximum diameter requirement specified in paragraph (a)(2)(i) of this section and the labeling requirement specified in paragraph (a)(2)(iii) of this section: *Provided*, That ''6 × 6 and larger'' is used to indicate the listed size designation on containers.

* * * * *

Dated: August 17, 1999.

Eric M. Forman,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–21674 Filed 8–19–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

[No. LS–98–001]

Soybean Promotion and Research Program: Procedures to Request a Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for soybean producers to request a referendum on the Soybean Promotion and Research Order (Order) as authorized under the Soybean Promotion, Research, and Consumer Information Act (Act). The Act provides that the Secretary, 5 years after the conduct of the initial referendum, shall give soybean producers the opportunity to request an additional referendum on the Order. Individual producers and other producer entities will be provided the opportunity to request a referendum during a specified period announced by the Secretary of Agriculture (Secretary), at the county Farm Service Agency (FSA) office where FSA maintains and processes the producer's administrative farm records. For the producer not participating in FSA programs, the opportunity to request a referendum will be provided at the county FSA office serving the county where the producer owns or rents land. Participation in the Request for Referendum is not mandatory. This final rule establishes the procedures for conducting the required Request for Referendum.

EFFECTIVE DATES: August 21, 1999.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP–0251; 14th and Independence Avenue, SW.; Washington, D.C. 20250–0251. Telephone number 202/720–1115.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Proposed Rule—Soybean Promotion and Research Program: Procedures to Request a Referendum published September 4, 1998 (63 FR 47200); Proposed Rule—Soybean Promotion and Research Program: Request for Referendum published April 16, 1999 (64 FR 18831).

Executive Order 12866 and 12988 and the Regulatory Flexibility Act and the Paperwork Reduction Act

This final 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).

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1971 of the Act, a person subject to the Order may file with the Secretary 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 an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing the Secretary will rule on the petition. The statute provides that the district court of the United States in any district in which the petitioner resides or carries on business has jurisdiction to review the Secretary's decision if a complaint for that purpose is filed not later than 20 days after the date of the entry of the Secretary's decision.

Further, § 1974 of the Act provides, with certain exceptions, that nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. One exception in the Act concerns assessments collected by the Qualified State Soybean Boards (QSSBs). The exception provides that to ensure adequate funding of the operations of QSSBs under the Act, no State law or regulation may limit or have the effect of limiting the full amount of assessments that a QSSB in that State may collect, and which is authorized to be credited under the Act. Another exception concerns certain referendums conducted during specified periods by a State relating to the continuation or termination of a QSSB or State soybean assessment.

Pursuant to requirements set forth in the Regulatory Flexibility Act (5 United States Code (U.S.C.) 601 *et seq.*), the Administrator of AMS has considered the economic effect of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small business entities.

According to the statistical survey initiated by the Department of Agriculture (Department), there are 600,813 soybean producers who will be eligible to participate in the Request for Referendum. The majority of producers subject to the Order are small businesses under the criteria established by the Small Business Administration.

The requirements set forth in this rule are substantially similar to the rules that established the eligibility and participation requirements for a July 26, 1995, soybean producer poll published as a final rule on March 22, 1995 (60 FR 15027), in the **Federal Register**.

The procedures to request a referendum will not impose a substantial burden or have a significant