DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No.: AMS–SC–19–0068; SC19–966–3]

Tomatoes Grown in Florida; Proposed Amendments to the Marketing Order No. 966

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on proposed amendments to Marketing Order No. 966, which regulates the handling of tomatoes grown in Florida. The proposed amendments would change the Florida Tomato Committee's (Committee) size, length of the terms of office, and quorum requirements.

DATES: Comments must be received by December 2, 2019.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document 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, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Andrew Hatch, Chief, Rulemaking Services Branch, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@usda.gov* or *Andrew.Hatch@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal is issued under Marketing Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966 (referred to as 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 Committee locally administers the Order and is comprised of tomato producers operating within the area of production.

Section 8c(17) of the Act (7 U.S.C 608c(17)) and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendment of the Order through this informal rulemaking action. The Agricultural Marketing Service (AMS) will consider comments received in response to this proposed rule, and based on all the information available, will determine if the Order amendment is warranted. If AMS determines amendment of the Order is warranted, a subsequent proposed rule and notice of referendum would be issued and producers would be allowed to vote for or against the proposed Order amendments. AMS would then issue a final rule effectuating any amendments approved by producers in the referendum.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule shall not be deemed to preclude, preempt, or supersede any State program covering tomatoes grown in Florida.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608 (15)(A)), any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 8c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 8c(17) of the Act and the supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders depending upon the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendments proposed herein are not unduly complex and the nature of the proposed amendments is appropriate for utilizing the informal rulemaking process to amend the Order. A discussion of the potential regulatory and economic impacts on affected entities is discussed later in the ''Initial Regulatory Flexibility Analysis'' section of this proposed rule.

The Committee unanimously recommended the amendments following deliberations at two public meetings held on November 1, 2018, and February 27, 2019. The proposals would amend the Order by changing the Committee's size, the length of term of office, and quorum requirements.

Proposal 1—Reduce Committee Size

Section 966.22 provides that the Committee consists of 12 members and, for each member of the Committee,

there must be an alternate who has the same qualifications as the member. This proposal would amend § 966.22 by reducing the size of the Committee from 12 to 10 members. The requirement that each member have an alternate with the same qualifications as the member would remain unchanged.

Since promulgation of the Order in 1995, the Florida tomato industry has seen reductions of about 80% in the number of tomato producers and 33% of registered handlers. Natural industry consolidation and land development pressure have also contributed to this decline. Decreasing the Committee's size from 12 members to 10 members would make Committee membership more reflective of today's industry and enable it to fulfill quorum requirements.

Proposal 2—Revise Term of Office

Section 966.23 requires Committee members and their alternates to serve for one year.

This proposal would change § 966.23 by revising the term of office for producer members from one year to two years beginning on August 1 and ending as of July 31. Currently, the nominating process for the 12 members and alternate members is conducted annually. This proposed change would reduce the annual turnover on the Committee and provide time for new members and alternates to learn the details of Committee operations and business.

Proposal 3—Revise Quorum Requirements

Currently, § 966.32 states that eight members of the Committee shall constitute a quorum, and the same number of concurring votes shall be required to pass any motion or approve any Committee action.

The proposed change would modify § 966.32 to allow six members to constitute a quorum. The requirement that the same number of concurring votes (six) shall be required to pass any motion or approve any Committee action would remain unchanged. The Committee is experiencing difficulties filling all seats and obtaining a quorum at meetings since several seats have been vacant. Adjusting the current requirements would enable the Committee to operate fully and lower the risk of not reaching a quorum during scheduled meetings. These changes would help to streamline the Committee's operations and increase its effectiveness.

Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 75 producers of Florida tomatoes in the production area and 37 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average annual price for fresh Florida tomatoes during the 2017–18 season was approximately $12.56 per 25-pound container, and total fresh shipments were 25.9 million containers. Using the average price and shipment information, the number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts of more than $7,500,000 ($12.56 times 25.9 million containers equals $325,304,000 divided by 37 handlers equals $8,792,000 per handler).

With an estimated producer price of $6.00 per 25-pound container, the number of Florida tomato producers, and assuming a normal distribution, the average annual producer revenue is above $750,000 ($6.00 times 25.9 million containers equals $155,400,000 divided by 75 producers equals $2,072,000 per producer). Thus, the majority of handlers and producers of Florida tomatoes may be classified as large entities.

The proposed amendments would change the Committee's size, the length of term of office, and quorum requirements.

The Committee unanimously recommended the proposed amendments at public meetings on November 1, 2018 and February 27, 2019. If these proposals are approved in a referendum, there would be no direct financial effects on producers or handlers. However, these proposed changes would decrease administrative costs to producers and Committee staff. This action would save time and work for producers and Committee staff, by avoiding the annual requirement to prepare multiple nomination notices and meetings, and the administrative and travel expenses that are required to carry out these annual duties.

Since 1995, the number of producers and handlers operating in the industry has decreased, which makes it difficult to find enough members to fill positions on the Committee. Decreasing the Committee's size would make it more reflective of today's industry. No economic impact is expected if the proposed amendments are approved because they would not establish any new regulatory requirements on handlers, nor would they have any assessment or funding implications. There would be no change in financial costs, reporting, or recordkeeping requirements if this proposal is approved.

Alternatives to this proposal, including making no changes at this time, were considered by the Committee. Due to changes in the industry, AMS believes the proposals are justified and necessary to ensure the Committee's ability to locally administer the program. Reducing the size of the Committee would enable it to satisfy membership and quorum requirements fully, thereby ensuring a more efficient and orderly flow of business.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes in those requirements are necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida 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-sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

The Committee's meetings were widely publicized throughout the Florida tomato production area. All interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the November 1, 2018 and February 27, 2019, meetings were public, and all entities, both large and small, were encouraged to express their views on the proposals.

Interested persons are invited to submit comments on the proposed amendments to the Order, including comments on the regulatory and information collection impacts of this action on small businesses.

Following analysis of any comments received on the amendments in this proposed rule, AMS will evaluate all available information and determine whether to proceed. If appropriate, a proposed rule and notice of referendum would be issued, and producers would be provided the opportunity to vote for or against the proposed amendments. Information about the referendum, including dates and voter eligibility requirements, would be published in a future issue of the **Federal Register**. A final rule would then be issued to effectuate any amendments favored by producers participating in the referendum.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

General Findings

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of Marketing Order 966; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. Marketing Order 966 as hereby proposed to be amended and all the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. Marketing Order 966 as hereby proposed to be amended regulates the handling of tomatoes grown in Florida and is applicable only to persons in the respective classes of commercial and industrial activity specified in the Order;

3. Marketing Order 966 as hereby proposed to be amended is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. Marketing Order 966 as hereby proposed to be amended prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of tomatoes produced or packed in the production area; and

5. All handling of tomatoes produced or packed in the production area as defined in Marketing Order 966 is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

A 60-day comment period is provided to allow interested persons to respond to these proposals. Any comments received on the amendments proposed in this proposed rule will be analyzed, and if AMS determines to proceed based on all the information presented, a producer referendum would be conducted to determine producer support for the proposed amendments. If appropriate, a final rule would then be issued to effectuate the amendments favored by producers participating in the referendum.

List of Subjects in 7 CFR Part 966

Tomatoes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 966 is proposed to be 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. In § 966.22 revise paragraph (a) to read as follows:

§ 966.22 Establishment and membership.

(a) The Florida Tomato Committee, consisting of 10 producer members, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

* * * * *

■ 3. In § 966.23 revise paragraph (a) to read as follows:

§ 966.23 Term of office.

(a) The term of office of committee members, and their respective alternates, shall be for 2 years and shall begin as of August 1 and end as of July 31.

* * * * *

■ 4. In § 966.32 revise paragraph (a) to read as follows:

§ 966.32 Procedure.

(a) Six members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

* * * * *

Dated: September 23, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–21018 Filed 9–30–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0703; Product Identifier 2019–NM–106–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Fokker Services B.V. Model F28 Mark 0100 airplanes. This proposed AD was prompted by reports of smoke in the flight deck, in conjunction with the loss of electrical power. This proposed AD would require replacement of affected generator power transfer contactors (GPTCs), essential bus transfer contactors (EBTCs), and auxiliary power transfer contactors (APTCs), as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 15, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods: