20,000 pounds of raspberries for processing and importers must have imported 20,000 pounds of processed raspberries during the representative period from January 1, 2010 through December 31, 2010, to be eligible to vote. The referendum shall be conducted by mail ballot from June 8 through June 24, 2011. Ballots must be received by the referendum agent no later than the close of business 4:30 p.m. (Eastern Time) on June 24, 2011, to be counted.

Section 518 of the 1996 Act authorizes the Department to conduct a referendum prior to the Order's effective date. The Order shall become effective only if it is determined that the Order has been approved by a majority of those eligible persons voting for approval.

Kimberly Coy, of the USDA, AMS, Research and Promotion Branch, is designated as the referendum agent to conduct this referendum. The referendum procedures [7 CFR 1208.100 through 1212.108], which were issued pursuant to the 1996 Act, shall be used to conduct the referendum.

The referendum agent will mail registration instructions to all known eligible producers and importers in advance of the referendum. Any producer or importer who does not receive registration instructions should contact the referendum agent cited under the "For Further Information" section no later than one week before the end of the registration period. Prior to the first day of the voting period, the referendum agent will mail the ballots to be cast in the referendum and voting instructions to all eligible voters. Persons who are producers and importers during the representative period are eligible to vote. Any producer or importer who does not receive a ballot should contact the referendum agent cited under the "For Further Information" section no later than one week before the end of the registration period. Ballots must be received by the referendum agent by the close of business on or before [insert last day of referendum], to be counted.

In accordance with the OMB regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. 35], the referendum ballot, which represents the information collection and recordkeeping requirements that may be imposed by this rule, was submitted to OMB for approval and approved under OMB Number 0581–0257.

List of Subjects in 7 CFR Part 1208

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

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2011–11050 Filed 5–4–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Document Number AMS–FV–10–0093]

Watermelon Research and Promotion Plan; Redistricting and Importer Representation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on changing the boundaries of all seven districts under the Watermelon Research and Promotion Plan (Plan) to reapportion the producer, handler, and importer memberships on the National Watermelon Promotion Board (Board). In addition, the Board is adding two importer seats based on the quantity of watermelon imports in the past three years. These changes are based on a review of the production and assessments paid in each district and the amount of watermelon import assessments, which the Plan requires at least every five years. As a result of these changes, the importer seats would increase from six to eight. Therefore, the total Board membership would increase from 35 to 37 members. In addition, a new CFR section is added to reflect the importer representation on the Board.

DATES: Comments must be received by June 6, 2011.

ADDRESSES: Interested persons are invited to submit written comments on the Internet at: *http://www.regulations.gov* or to the Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, (USDA) Room 0632–S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250–0244; facsimile: (202) 205–2800. 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 above office during regular business hours or it can be viewed at *http://www.regulations.gov.* All comments received will be posted without change, including any personal information provided. Please be advised that the identity of the individuals or entities submitting comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632–S, Washington, DC 20250–0244; telephone: (888) 720–9917; facsimile: (202) 205–2800; or electronic mail: *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].

Executive Orders 12886

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

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 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.

Initial Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act [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 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 2010 crop year was about 310 hundredweight (cwt.) of watermelons were produced per acre. The 2010 grower price published by NASS was $12.00 per hundredweight. Thus, the value of watermelon production per acre in 2010 averaged about $3,720 (310 cwt. × $12.00). At that average price, a producer would have to farm over 202 acres to receive an annual income from watermelons of $750,000 ($750,000 divided by $3,720 per acre equals 202). 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 freight on board (f.o.b.) price of $.0164 per pound and the number of pounds handled in 2010, none of the watermelon handlers had receipts over the $7.5 million threshold. Therefore, the watermelon handlers would all be considered small businesses. A handler would have to ship over 457 million pounds of watermelons to be considered large (457,317,073 times $.0164 f.o.b. equals $7,500,000).

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 2010, the United States imported watermelons worth over $260 million dollars. The largest imports of watermelon came from Mexico which accounted for 93 percent of the total in 2010. Other suppliers of imported watermelon are Guatemala at 3 percent and Honduras at 1 percent. The remaining 3 percent of imported watermelon came from Canada, Netherlands, Nicaragua, Nigeria, and Panama.

The Board's assessment records show imports for the years 2007, 2008, and 2009 at $681,565, $783,249, and $742,363 respectively. Based on this data, the three-year average annual imports for watermelon total $735,725 (2,207,177 divided by 3). This represents approximately 29 percent of the total assessments paid to the Board. Currently there are 6 importers on the Board representing 17 percent of the total members. Accordingly, two importer seats should be added to the Board. The new Board membership distribution would be 14 producers, 14 handlers, 8 importers, and 1 public member which would bring the percentage of seats for importers to 22 percent of the total seats on the Board.

Nominations and appointments to the Board are conducted pursuant to sections 1210.321 of the Plan. The Plan requires producers to be nominated by producers, handlers to be nominated by handlers, and importers to be nominated by importers. This would not change. Because some current members are in States or counties which would be moved to other districts under this rule, one producer member vacancy in the new District 2, one handler member vacancy in the new Districts 3, and one producer member vacancy in the new District 7 would result with this change. Nomination meetings will be held in the new districts to fill these vacancies.

Appointments to the Board are made by the Secretary from a slate of nominated candidates. The nominees for the two producer, one handler and two importer positions will be submitted to the Secretary for appointment to the Board.

The overall impact is favorable because the new district boundaries provide more equitable representation for the producers, handlers, and importers who pay assessments in the various districts.

The Board chose the realignment scenario that kept the States together. For instance, California is currently divided into two districts and the Board has realigned California so that all the counties in California are located in one district. The new realignment would also give Georgia and Texas their own respective districts. The other States will be divided up to reflect their watermelon production levels and grouped together for the four remaining districts.

The Board considered several alignments of the districts in an effort to provide balanced representation for each district. The Board selected the alignment described in this rule as it provides proportional representation on the Board of producers, handlers, and importers. The addition of two importers would allow for more importers representation on the Board's decision making and also potentially provide an opportunity to increase diversity on the Board.

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 background form, which represents the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB number 0505–0001.

The Plan requires that two nominees be submitted for each vacant position. With regard to information collection requirements, adding two importers to the Board means that four additional importers will be required to submit background forms to USDA in order to be considered for appointment to the Board. However, serving on the Board is optional, and the burden of submitting the background form would be offset by the benefits of serving on the Board. The estimated annual cost of providing the information by four importers would be $33 or $8.25 per importer. The additional minimal burden will be included in the existing information collection package under OMB number 0505–0001.

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

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this amendment to the Plan on small entities, and we invite comments concerning potential effects of this amendment.

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 reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection. This action will 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 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

The seven current districts were established in 2006. They are:

District 1—The Florida counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Marion, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

District 2—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington, and the Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, Seminole, and the States of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, and Virginia.

District 3—The Georgia counties not included in District two and the State of South Carolina.

District 4—The States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Kentucky, West Virginia, Maryland, New Hampshire, Maine, New Jersey, New York, Pennsylvania, Massachusetts, Rhode Island, Delaware, Vermont, Wisconsin, Connecticut, and Washington, DC.

District 5—The States of Alaska, Hawaii, Nevada, Oregon, and Washington and all of the counties in the state of California except for those California counties included in District Seven.

District 6—The counties in the state of Texas, except for those counties in Texas included in District Seven.

District 7—The counties in the state of Texas; Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, the States of New Mexico, Arizona, Utah, Colorado, Idaho, Montana, and Wyoming, and the following counties in California; San Bernardino, Riverside, San Diego, and Imperial.

Pursuant to section 1210.320(c) of the Plan, the Board shall review the seven districts every five years to determine whether realignment of the districts is necessary. When making a review, the Plan specifies that the Board should consider factors such as the most recent three years of USDA production reports or Board assessment reports if USDA production reports are unavailable, shifts and trends in quantities of watermelons produced, and any other relevant factors. Any realignment should be recommended by the Board at least six months prior to the date of the call for nominations and should become effective at least 30 days prior to this date.

Pursuant to section 1210.320 (e) of the Plan, the Secretary shall review importer representation every five years. According to the Plan, the Secretary shall review a three-year average of watermelon import assessments and adjust, to the extent practicable, the number of importers on the Board.

The Board appointed a subcommittee to begin reviewing the U.S. districts and to determine whether realignment was necessary based on production and assessment collections in the current districts. During the review, as prescribed by the Plan, the subcommittee reviewed USDA's Annual Crop Summary reports for 2007 through 2009, which provided figures for the top 17 watermelon producing states, and the Board's assessment collection records for 2007 through 2009. Both sets of data showed similar trends in production among the various States. However, the Board used the assessment reports because USDA's Annual Crop Summary reports were available for only 17 of the 34 states in which watermelons are produced.

The subcommittee recommended to the Board that the boundaries of all seven districts be changed in order to provide for a better distribution of production among producers and handlers in the districts.

The subcommittee also considered the assessments of watermelon imports paid to the Board. The Board's assessment records show imports for the years 2007, 2008, and 2009 at $681,565, $783,249, and $742,363 respectively. Based on this data, the three-year average annual imports for watermelon total $735,725 (2,207,177 divided by 3). The average annual percentage of assessments paid by importers represents almost 29 percent of the Board's assessment income. In contrast to the 2006 realignment, the importer's assessment collection represented 20 percent of the Board's assessment income. Because there was a 9 percent increase in the assessments on imports, the Board recommended an increase in the number of importers on the Board. USDA has evaluated information concerning importer assessments and has determined that the number of importer representatives on the Board should be increased by two members. Therefore, the number of importer Board members would increase from six to eight.

Section 1647 (3)(A) of the Act authorizes the Board to have at least one or more importer representative to serve on the Board. However, there is no section in the Plan that identifies the number of importers on the Board. Section 1210.502 is currently reserved and will be used to reflect importer representation on the Board.

The realignment was approved by the Board at its November 13, 2010, meeting. Under the realignment, each district would represent, on average, 16 percent of total U.S. production. The composition of the Board would increase to a total of 37 members: 14 producers, 14 handlers, 8 importers, and 1 public member.

Therefore, this rule realigns the districts as follows:

District 1—The Florida counties of Brevard, Broward, Charlotte, Collier, Dade, Desoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Volusia.

District 2—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington, and the States of North Carolina and South Carolina.

District 3—The State of Georgia.

District 4—The States of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and Washington, DC.

District 5—The State of California.

District 6—The State of Texas.

District 7—The States of Alaska, Arkansas, Arizona, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

Under this realignment: (1) The Florida counties of Citrus, Flagler, Hernando, Marion, Putnam, St. Johns and Sumter are moved from District 1 to District 2; (2) Alabama, Tennessee, and Virginia are moved from District 2 to District 4; (3) Arkansas, Louisiana, Mississippi, and Oklahoma are moved from District 2 to District 7; (4) Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, and Seminole are moved from District 2 to District 3, (5) South Carolina moved from District 3 to District 2; (6) Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota are moved from District 4 to District 7; (7) Alaska, Hawaii, Nevada, Oregon, and Washington are moved from District 5 to District 7; (8) The following counties in the State of Texas: Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hanaford, Hartely, Hemphill, Hockely, Hutchinson, Kent, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Stonewall, Swisher, Terry, Wheeler, and Yoakum are moved from District 7 to District 6; (9) the following counties in California: San Bernardino, Riverside, San Diego, and Imperial are moved from District 7 to District 5.

Due to the re-alignment of districts, the following vacancies are created: one producer vacancy in District 2; one handler vacancy in District 3, one producer vacancy in District 7; and two importer vacancies. Current Board members would be affected because their States or counties would be moved to other districts. Nomination meetings will be held as soon as possible in the new districts to fill the vacancies.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate so that the proposed amendments, if adopted, may be implemented to allow for the calendar year 2012 nomination meetings to take place before the appointments for new Board members are due. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

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.

Subpart C—Rules and Regulations

2. Section 1210.501 is revised to read as follows:

§ 1210.501 Realignment of districts.

Pursuant to § 1210.320(c) of the Plan, the districts shall be as follows:

District 1—The Florida counties of Brevard, Broward, Charlotte, Collier, Dade, Desoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Lucie, and Volusia.

District 2—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Marion, Nassau, Okaloosa, Putnam, Santa Rosa, St. Johns, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington, and the States of North Carolina and South Carolina.

District 3—The State of Georgia.

District 4—The States of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, Vermont, Wisconsin, West Virginia, and Washington, DC.

District 5—The State of California.

District 6—The State of Texas.

District 7—The States of Alaska, Arkansas, Arizona, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

3. Section 1210.502 is added to read as follows:

§ 1210.502 Importer members.

Pursuant to § 1210.320(d) of the Plan, there are eight importer representatives on the Board based on the proportionate percentage of assessments paid by importers to the Board.

Dated: April 28, 2011.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2011–11043 Filed 5–4–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2011–BT–STD–0029]

RIN 1904–AC47

Energy Conservation Program for Certain Industrial Equipment: Energy Conservation Standards for Commercial Heating, Air-Conditioning, and Water-Heating Equipment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of data availability and request for public comment.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, directs the U.S. Department of Energy (DOE) to establish energy conservation standards for certain commercial and industrial equipment, including commercial heating, air-conditioning, and water-heating products. Of particular relevance here, the statute also requires that each time the corresponding consensus standard—the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE)/Illuminating Engineering Society of North America (IESNA) Standard 90.1—is amended by the industry, DOE must assess whether there is a need to update the uniform national energy conservation standards for the same equipment covered under EPCA. ASHRAE officially released an amended version of this industry standard (ASHRAE 90.1–2010) on October 29, 2010, thereby triggering DOE's related obligations under EPCA. In addition, the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require DOE to review the most recently published ASHRAE/IES Standard 90.1 with respect to single-package vertical air conditioners and single-package vertical heat pumps in accordance with the procedures established for reviewing the energy conservation standards for other