

# 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 1211

[Document Number AMS-FV-11-0074; PR-B2]

RIN 0581-AD24

#### Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order; Referendum Procedures

**AGENCY:** Agricultural Marketing Service.

**ACTION:** Proposed rule; supplemental notice of proposed rulemaking.

**SUMMARY:** The U.S. Department of Agriculture (USDA) is proposing to amend the 2013 proposed rule on procedures for conducting a referendum to determine whether issuance of a proposed Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order (Order) is favored by manufacturers of hardwood lumber and hardwood plywood. The procedures would also be used for any subsequent referendum under the Order. USDA is reopening the comment period with respect to specific issues identified in this proposed rule. USDA is taking this action in response to the extensive comments received in response to a separate 2013 proposed rule on specific provisions of the proposed Order. A supplemental notice proposing to amend the 2013 proposed Order is being published separately in this issue of the **Federal Register**. The changes proposed herein are conforming changes to ensure definitions are the same in the proposed Order and proposed referendum procedures.

**DATES:** Comments must be received by July 9, 2015.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this supplemental proposal. Comments may be submitted on the Internet at: <http://www.regulations.gov> or to the Promotion and Economics Division, Fruit and Vegetable Program,

AMS, USDA, 1400 Independence Avenue SW., Room 1406-S, Stop 0244, Washington, DC 20250-0244; facsimile: (202) 205-2800. 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, including name and address, if provided, in the above office during regular business hours or it can be viewed at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Patricia A. Petrella, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406-S, Stop 0244, Washington, DC 20250-0244; telephone: (301) 334-2891; facsimile (301) 334-2896; or electronic mail: [Patricia.Petrella@ams.usda.gov](mailto:Patricia.Petrella@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued pursuant to the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411-7425).

As part of this rulemaking process, two proposed rules were published in the **Federal Register** on November 13, 2013. One proposal pertained to the proposed Order (78 FR 68298) and a second pertained to proposed referendum procedures (78 FR 67979). Both proposals provided for a 60-day comment period which ended January 13, 2014. On January 16, 2014, a notice was published in the **Federal Register** that reopened and extended the comment period on the proposed Order until February 18, 2014 (79 FR 1805). A total of 939 comments were received in response to the proposed Order and 63 comments were received in response to the proposed referendum procedures.

#### 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 action

has been designated as “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 reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

#### Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA’s final ruling.

#### Background

In June 2011, USDA received a proposal for a national research and promotion program for hardwood lumber and hardwood plywood from the Blue Ribbon Committee (BRC). The BRC is a committee of 14 hardwood lumber and hardwood plywood

industry leaders representing small and large manufacturers geographically distributed throughout the United States.

The BRC proposed a program that would be financed by an assessment on hardwood lumber and hardwood plywood manufacturers and administered by a board of industry members selected by the Secretary. The purpose of the program would be to strengthen the position of hardwood lumber and hardwood plywood in the marketplace and maintain and expand markets for hardwood lumber and hardwood plywood. A referendum would be held among eligible hardwood lumber and hardwood plywood manufacturers to determine whether they favor implementation of the program prior to it going into effect.

As previously stated, two proposed rules were published in the **Federal Register** on November 13, 2013. One proposal pertained to the proposed Order and a second pertained to proposed referendum procedures. Both proposals provided for a 60-day comment period which ended January 13, 2014. The comment period on the proposed Order was reopened and extended until February 18, 2014. A total of 939 comments were received in response to the proposed Order. Sixty-three comments were received in response to the proposed referendum procedures. Upon review, these 63 comments were actually in reference to the proposed Order rather than the referendum procedures.

Many of the comments included questions about fundamental provisions of the program as proposed. As a result, USDA is reopening the comment period to solicit additional comments on specific areas in the November 2013 proposal regarding the proposed Order. A supplemental notice of proposed rulemaking is published elsewhere in this issue of the **Federal Register** to amend the proposed Order.

USDA is also reopening the comment period to solicit comments on proposed conforming changes that are necessary to the November 2013 proposed rule regarding the referendum procedures to ensure that definitions are the same in the proposed Order and referendum procedures. The proposed conforming changes open for comment are detailed in the section titled Scope of Supplemental Notice of Proposed Rulemaking.

#### *Clarification Regarding Exports and Imports*

In this document, USDA is clarifying that exports would be covered under the program. The background section of the

November 2013 proposed rule on referendum procedures (78 FR 67979) inadvertently stated that exports would be exempted from the proposed program. USDA is also reiterating that imports would not be covered under the program. Several commenters raised this question during the comment period in response to the November 2013 proposed Order.

In this document, USDA is also informing stakeholders of a supplemental notice of proposed rulemaking published elsewhere in this issue of the **Federal Register** to the separate 2013 proposal concerning the proposed Order (November 13, 2013; 78 FR 68298).

#### **Scope of Supplemental Notice of Proposed Rulemaking**

##### *Proposed Modifications to Previously Proposed Provisions*

USDA is proposing to revise provisions of the previously proposed referendum procedures to make conforming changes to ensure definitions are the same in the proposed Order and proposed referendum procedures. USDA is also proposing to add five definitions that were inadvertently omitted from the November 2013 proposed referendum procedures. USDA requests comments on the proposed revisions which are described in the following paragraphs.

#### **Definitions**

USDA proposes to simplify section 1211.101 of the November 2013 proposed referendum procedures by removing the paragraph designations for the listed definitions. The definitions would continue to be listed in alphabetical order.

##### *Eligible Hardwood Lumber and Hardwood Plywood Manufacturer*

USDA is proposing to modify the term “eligible hardwood lumber and hardwood plywood manufacturer” as defined in the November 2013 proposed referendum procedures in section 1211.101 (previously proposed paragraph (d)) to mean any current hardwood lumber manufacturer with annual sales of \$2 million or more and current hardwood plywood manufacturers with annual sales of \$10 million or more during the representative period. The November 2013 proposed rule inadvertently indicated that only sales within the United States would be included in this definition. The designation regarding paragraph (d) in section 1211.101 would be removed.

##### *Green Air Dried (G/AD)*

USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed referendum procedures to define the term “green air dried (G/AD)” to mean green hardwood lumber or hardwood lumber that has been dried by exposure to air in a yard or shed, without artificial heat. This term is needed to address concerns raised by commenters regarding how green air dried lumber would be handled under the proposed program.

##### *Green (G) Hardwood Lumber*

USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed referendum procedures to define the term “green hardwood lumber” to mean hardwood lumber that has not been kiln dried or air dried. This term was inadvertently omitted from the November 2013 proposed referendum procedures.

##### *Hardwood Lumber*

USDA is proposing to modify the term “hardwood lumber” as defined in the November 2013 proposed referendum procedures in section 1211.101 (previously proposed paragraph (e)) to clarify that it includes yellow poplar in the list of trees referenced, and that the respective trees must be grown in the United States. This modification is proposed in response to comments received requesting that the term be clarified. Thus, the term hardwood lumber would mean timber from the wood of a cypress tree or a deciduous, broad leafed tree (including but not limited to aspen, birch, cypress, poplar, *yellow poplar*, maple, cherry, walnut and oak) *grown in the United States* that has been sawn into boards or blocks by a sawmill in the United States. The designation regarding paragraph (e) in section 1211.101 would be removed.

##### *Hardwood Lumber Products*

USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed referendum procedures to define the term “hardwood lumber products” to mean hardwood G/AD/KD lumber that has been transformed into products that remain boards meeting or exceeding the level of “Grade 3A Common” as defined by National Hardwood Lumber Association Rules for the Inspection of Hardwood & Cypress effective January 1, 2015 (<http://nhla.com/rulesbook>), or equivalent proprietary standard, as recommended by the Board and approved by the Secretary. The Grade 3A Common standard would provide minimum requirements for covered hardwood in terms of width, length and

other factors. This third party standard would be incorporated by reference in section 1211.101 and would specify the current version of the cited third-party standard and would include information on the availability of this standard to meet requirements for incorporation by reference. For purposes of the Order, hardwood lumber would not include industrial products which remain in board or block form such as ties, cants, crane mat material and pallet stock or products which are transformed from boards or blocks of lumber into other products such as furniture, tight cooperage, cabinetry, and constructed pallets. The term hardwood lumber products was inadvertently omitted from the November 2013 proposed referendum procedures.

#### *Hardwood Lumber Value-Added Products*

USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed referendum procedures to define the term “hardwood lumber value-added products” to mean products which remain in the general shape of hardwood lumber boards, but have undergone additional processing beyond surfacing or cutting to a particular size. Hardwood lumber value-added products include products such as solid wood unfinished strip flooring, all-sides surfaced boards, finger-jointed strips ripped to width, and moldings. For purposes of the proposed Order, hardwood lumber value-added products would not include industrial products which remain in board or block form such as ties, cants, crane mat material, and pallet stock or products which are transformed from boards or blocks of lumber into other products, such as furniture, tight cooperage, cabinetry, and constructed pallets. Further, it would not include multi-component or further manufactured products such as furniture, cabinets, cabinet doors, prefinished or engineered flooring, pallets, or dimension or glued components for cabinets or furniture. The term hardwood lumber value-added products was inadvertently omitted from the November 2013 referendum procedures.

#### *Kiln Dried (KD)*

USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed referendum procedures to define the term “kiln dried (KD)” to mean hardwood lumber that has been seasoned in a kiln by means of artificial heat, humidity and circulation. The term kiln dried was

also inadvertently omitted from the November 2013 referendum procedures.

#### *Order*

USDA is also proposing an editorial change to proposed section 1211.101 (previously proposed paragraph (h)) of the November 2013 proposed referendum procedures to clarify that the Order means the *Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order*. The designation regarding paragraph (h) in section 1211.101 would be removed.

USDA is proposing to modify the referenda criteria specified in the November 2013 proposed rule in paragraphs (a) and (b) of proposed section 1211.81 to require approval by a majority of manufacturers voting in the referendum who also represent a majority of the volume represented in the referendum. It should be noted that USDA is proposing to modify the referendum criteria in the proposed Order, published separately.

#### **Regulatory Flexibility Act Analysis**

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the proposed rule on small entities. Accordingly, AMS has considered the economic impact of this action on such entities.<sup>1</sup>

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 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 (manufacturers) as those having annual receipts of no more than \$7.0 million.

According to information submitted by the proponents, it is estimated that there are 2,804 hardwood lumber manufacturers and 36 hardwood plywood manufacturers in the United States annually. This number represents separate business entities and includes exempted and assessed entities under the Order; one business entity may include multiple sawmills. It is estimated that 85 to 90 percent of the manufacturers are small businesses.

In this document, USDA is proposing to amend the November 2013 proposed rule regarding referendum procedures to determine whether issuance of a proposed Order for hardwood lumber and hardwood plywood is favored by a

majority of manufacturers voting in the referendum who also represent a majority of the volume represented in the referendum. USDA is reopening the comment period only with respect to specific issues identified in this proposed rule. USDA is taking the action in response to extensive comments received in response to the November 2013 proposed rule. The proposed referendum procedures are authorized under the 1996 Act.

Regarding the economic impact of the changes proposed in this supplemental notice, most of the changes are for the purpose of clarification and would have no economic impact on affected entities. The changes proposed are conforming changes to ensure definitions are the same in the proposed Order and proposed referendum procedures. The changes pertain to section 1211.101 and include: Adding definitions for the following terms—green air dried (G/AD), green (G) hardwood lumber, hardwood lumber products, hardwood lumber value-added products, and kiln dried; and clarifying the terms hardwood lumber and Order. The section was also simplified to remove the paragraph designations.

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

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.

#### **Incorporation by Reference**

As previously mentioned, USDA is proposing to add a new definition to section 1211.101 of the November 2013 proposed rule to define the term “hardwood lumber products.” This definition would be linked to a grade standard defined in the National Hardwood Lumber Association Rules for the Inspection of Hardwood & Cypress. This standard is discussed in more detail in the Hardwood lumber products section elsewhere in this document and is available online.

While the proposal set forth below has not received the approval of USDA, it is determined that the proposed referendum procedures, and the revisions proposed herein, are consistent with and would effectuate the purposes of the 1996 Act.

<sup>1</sup> The complete Regulatory Flexibility Act Analysis appears in the proposed rule at 78 FR 67980.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty-days is deemed appropriate because this proposal supplements a November 2013 proposed rule regarding referendum procedures applicable to a proposed national promotion program for hardwood lumber and plywood. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

The entire proposed referendum procedures are published for ease of reference.

#### List of Subjects in 7 CFR Part 1211

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Hardwood lumber, Hardwood plywood, Incorporation by reference, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter XI of the Code of Federal Regulations, as proposed to be amended on November 13, 2013 (78 FR 67979) and elsewhere in this issue of the **Federal Register**, be further amended as follows:

### PART 1211—HARDWOOD LUMBER AND HARDWOOD PLYWOOD PROMOTION, RESEARCH AND INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1211 continues to read as follows:

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

■ 2. Subpart B of 7 CFR part 1211 is added to read as follows:

#### Subpart B—Referendum Procedures

Sec.

1211.100	General.
1211.101	Definitions.
1211.102	Voting.
1211.103	Instructions.
1211.104	Subagents.
1211.105	Ballots.
1211.106	Referendum report.
1211.107	Confidential information.
1211.108	OMB Control number.

#### Subpart B—Referendum Procedures

##### § 1211.100 General.

Referenda to determine whether eligible hardwood lumber and hardwood plywood manufacturers favor the issuance, continuance, amendment, suspension, or termination of the Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order shall be conducted in accordance with this subpart.

##### § 1211.101 Definitions.

For the purposes of this subpart: *Administrator* means the Administrator of the Agricultural Marketing Service, with power to delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

*Covered hardwood* means hardwood lumber, hardwood lumber products, hardwood value-added lumber products, and hardwood plywood to which an assessment has been or may be levied pursuant to the Order.

*Department or USDA* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

*Eligible hardwood lumber and hardwood plywood manufacturer* means any current hardwood lumber manufacturer with annual sales of \$2 million or more and current hardwood plywood manufacturers with annual sales of \$10 million or more during the representative period.

*Green air dried (G/AD)* means green hardwood lumber or hardwood lumber that has been dried by exposure to air in a yard or shed, without artificial heat.

*Green (G) hardwood lumber* means hardwood lumber that has not been kiln dried or air dried.

*Hardwood lumber* means timber from the wood of a cypress tree or a deciduous, broad-leafed tree (including but not limited to aspen, birch, cypress, poplar, yellow poplar, maple, cherry, walnut, and oak) grown in the United States that that has been sawn into boards or blocks by a sawmill in the United States.

*Hardwood lumber products* means hardwood G/AD/KD lumber that has been transformed into products that remain boards meeting or exceeding the level of "Grade 3A Common" as defined by National Hardwood Lumber Association Rules for the Inspection of Hardwood & Cypress effective January 1, 2015 (<http://nhla.com/rulesbook>), or equivalent proprietary standard, as recommended by the Board and approved by the Secretary. For purposes of this Order, hardwood lumber does not include industrial products which remain in board or block form such as ties, cants, crane mat material, and pallet stock or products which are transformed from boards or blocks of lumber into other products such as furniture, tight cooperage, cabinetry, and constructed pallets.

(1) The following standard is incorporated by reference into this part

with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Any subsequent amendment to the standard by the standard-setting organization will not affect the USDA standard unless and until amended by USDA. Material is incorporated as it exists on the date of approval and a notice of any change in the material will be published in the **Federal Register**. All approved material can be obtained from National Hardwood Lumber Association, P.O. Box 34518, Memphis, TN 38184; phone (901) 377–1818; <http://www.nhla.com/>. It is available for inspection at the Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; facsimile: (202) 205–2800, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(2) [Reserved]

*Hardwood lumber value-added products* means products which remain in the general shape of hardwood lumber boards, but have undergone additional processing beyond surfacing or cutting to a particular size. Hardwood lumber value-added products include products such as solid wood unfinished strip flooring, all-sides surfaced boards, finger-jointed strips ripped to width, and moldings. For purposes of this Order, hardwood lumber value-added products does not include industrial products which remain in board or block form such as ties, cants, crane mat material, and pallet stock or products which are transformed from boards or blocks of lumber into other products, such as furniture, tight cooperage, cabinetry, and constructed pallets. Further, it does not include multi-component or further manufactured products such as furniture, cabinets, cabinet doors, prefinished or engineered flooring, pallets, or dimension or glued components for cabinets or furniture.

*Hardwood plywood* means a panel product, the decorative face of which is made from hardwood veneer intended for interior use composed of an assembly of layers or plies of veneer or veneers in combination with lumber core, particleboard, medium density fiberboard core, hardboard core, or special core or special back material joined with an adhesive.

*Kiln dried (KD)* means hardwood lumber that has been seasoned in a kiln by means of artificial heat, humidity and circulation.

*Manufacturing* means the process of transforming logs into hardwood lumber, or the process of creating hardwood lumber products, value-added hardwood lumber products, or hardwood plywood.

*Order* means the Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order.

*Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term “partnership” includes, but is not limited to:

(a) A spouse who has title to, or leasehold interest in, a hardwood lumber manufacturing entity as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(b) So called “joint ventures” wherein one or more parties to an agreement, informal or otherwise, contributed land, facilities, capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the manufacturing of covered hardwood lumber and the authority to transfer title to the hardwood lumber so manufactured.

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

*Representative period* means the period designated by the Department.

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

#### § 1211.102 Voting.

(a) Each eligible manufacturer of covered hardwood lumber shall be entitled to cast only one ballot in the referendum. However, each manufacturer in a landlord/tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to manufacture covered hardwood lumber, in which more than one of the parties is a manufacturer, shall be entitled to cast one ballot in the referendum covering only such manufacturer’s share of ownership.

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

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

(c) A single entity who manufactures covered hardwood lumber may cast one vote in the referendum.

(d) All ballots are to be cast by mail or other means, as instructed by the Department.

#### § 1211.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, consistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

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

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

(c) Give reasonable public notice of the referendum:

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

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

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

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

(f) Prepare a report on the referendum; and

(g) Announce the results to the public.

#### § 1211.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in

performing such agent’s functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

#### § 1211.105 Ballots.

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

#### § 1211.106 Referendum report.

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

#### § 1211.107 Confidential information.

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

#### § 1211.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581-NEW.

Dated: June 1, 2015.

**Rex A. Barnes,**

*Associate Administrator.*

[FR Doc. 2015-13646 Filed 6-8-15; 8:45 am]

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