

review the geographic distribution and production of mangos to ensure equitable Board composition and that additional U.S. first handlers would be added if domestic production increases.

One commenter who supported the program requested that the definition of first handler in § 1206.6 be revised for clarity. The commenter proposed a rewrite of the definition, including in the text the time frame of a calendar year for the handling of 500,000 pounds or more of mangos. Specifying the time frame has merit. However, we believe that with one additional change, the definition of first handler is clear and consistent with the overall regulatory provisions. A separate reference to retailer in the definition of first handler is not needed. All persons, including retailers who meet the terms of the definition of first handler as provided in § 1206.6 would be covered under the provisions of the Mango Order. Accordingly, the reference is deleted. Further, as a result of the time frame change to § 1206.6, an appropriate conforming change has been made to the definition of importer in § 1206.9.

Another commenter expressed support for the program and recommended that the definition of foreign producer in § 1206.8 more closely reflect the definition of domestic producers in § 1206.16 to ensure that foreign producer members on the Board are actually producers of mangos and not merely exporters of mangos to the United States. This comment has merit and § 1206.8 is revised accordingly.

Three commenters in support of the program recommend that the term of office for the wholesaler/retailer position be reduced from three years to one year. This would expose the Board to a wider range of firms with marketing and consumer sales experience and allow a broader base of wholesalers and retailers. This comment has merit. Accordingly, USDA has added a term limitation for these positions of three, one-year terms in § 1206.32.

The same three commenters also recommended a three-week voting period for the referendum instead of four. Due to the relatively small number of eligible voters in a referendum, this comment has been adopted and requires no change in the text of the Order.

Regarding the foreign producer positions on the Board, one commenter stated support for the definition of foreign producer in the Order because the definition excludes persons who are solely exporters or brokers. The commenter also stated that there is no well recognized organization that represents the interests of producers in exporting countries. This commenter

also expressed the view that a single organization representing each exporting country would be more feasible and practical than one organization representing the interests of the producers of all exporting countries. This comment has merit and we have eliminated the requirement that there be one foreign producer organization from § 1206.31(g) of the Order. This would provide flexibility in the Order concerning foreign producer organizations.

This commenter also recommended that the Order be changed to allow the government of an exporting country to nominate foreign producer members if there is no national producer organization in that country. We disagree with this comment. As stated above, we have removed the limitation on the number of foreign producer organizations. In countries where there is currently no such organization, producers may create one in order to submit nominees for the foreign producer positions on the Board. This would be consistent with other national research and promotion programs supervised by USDA. Another commenter recommended that each of the seven major exporting countries be represented on the Board. Section 1206.31(g) already provides that foreign producer member nominees be representative of the major countries exporting mangos to the United States.

Two of the commenters who supported the Order stated that they would like a means of expressing their views to the Board if they do not have a member on the Board. All Board meetings will be open to the public, and any person will have the opportunity to contact the Board's staff or members at any time without making any changes to the Order. Accordingly, no change to the Order is made as a result of this comment.

One commenter who supported the Order requested that USDA develop grade standards for mangos. The Board will not have the authority to develop grade standards, and this issue is best addressed to the USDA's fruit and vegetable grading service. Therefore, this comment is denied.

Another commenter who favored the program requested that the Board's promotional campaigns disseminate variety-specific information on mangos. The Board, once it is appointed and has a staff, will make decisions regarding the types of promotional campaigns it will conduct. This may include dissemination of information on all different varieties of mangos. The Act requires mangos of all origins be promoted generically and § 1206.50(d)

of the Order requires that all varieties of mangos be treated equally.

Two of the commenters who are opposed to the program expressed the belief that USDA should have notified them when USDA received the proposal from the Association. USDA does not announce to the public when a proposal is received because, at that point, it is not known whether the proposal will be accepted by USDA. Notice to all potentially affected parties is made by publishing in the **Federal Register** the initial proposed rule requesting comments. In addition to that proposed rule, USDA issued a news release. Further, fruit and vegetable industry trade paper and magazine coverage of the proposal from the development stages, prior to the submission to USDA, and to date has been extensive. Therefore, the industry received substantial advance notice.

Finally, miscellaneous non-substantive changes are made by the Department for clarity in the definition of Market and Marketing in § 1206.12 and § 1206.78 to update the OMB control number.

The proposed Order is summarized as follows:

Sections 1206.1 through 1206.24 of the proposed Order define certain terms, such as mango, first handler and importer, which are used in the proposed Order. The definitions of eligible first handler and eligible importer were modified to improve clarity and be consistent with current Agency rules.

Sections 1206.30 through 1206.37 include provisions relating to the Board. These provisions cover establishment and membership, nominations and appointments, term of office, vacancies, procedures, compensation and reimbursement, powers, duties and prohibited activities of the Board, which is the governing body authorized to administer the proposed Order through the implementation of programs, plans, projects, budgets, and contracts to promote and disseminate information about mangos, subject to oversight of the Department.

Sections 1206.40 through 1206.43 cover budget review and approval; financial statements; authorize the collection of assessments; specify how assessments would be used; specify who pays the assessment and how; exemptions; and authorize the imposition of a late-payment charge on past-due assessments.

The Association recommends a proposed assessment rate of ½ cent per pound for domestic mangos and imported mangos. The assessment rate will be reviewed and may be modified