

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 1210

[FV-01-702 PR1]

**Watermelon Research and Promotion Plan; Amendment To Cover All Handlers**

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** This proposed rule would amend the Watermelon Research and Promotion Plan (Plan) and the regulations issued under the Plan to cover all handlers of watermelons—including wholesalers, persons who arrange the sale or transfer of watermelons, and fresh-cut processors in addition to the first handlers who are currently covered. Under this rule, all handlers would pay assessments and file reports on all watermelons they handle, including any watermelons handled domestically after their importation. All handlers would also be eligible to seek nomination to the National Watermelon Promotion Board and vote in referenda. The amendment would increase assessment income under the watermelon program. In order to become effective, the amendment must be approved by a majority of the watermelon producers, handlers, and importers voting in a referendum.

**DATES:** Comments must be received by June 29, 2001.

**ADDRESSES:** Interested persons are invited to submit written comments concerning the proposed rule to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535 South Building, Washington, DC 20250-0244. Comments should be submitted in triplicate and will be made available for public inspection at the above address during regular business hours, or on the Internet at [www.ams.usda.gov/fv/rpdocketlist.htm](http://www.ams.usda.gov/fv/rpdocketlist.htm). Comments may also be submitted electronically to: [malinda.farmer@usda.gov](mailto:malinda.farmer@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at the above Internet address.

Pursuant to the Paperwork Reduction Act of 1995 (PRA), also send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated

collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:**

Daniel R. Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535 South Building, Washington, DC 20250-0244; telephone (202) 720-9915; facsimile (202) 205-2800; or e-mail [Daniel.Manzoni@USDA.GOV](mailto:Daniel.Manzoni@USDA.GOV).

**SUPPLEMENTARY INFORMATION:** The National Watermelon Promotion Board (Board) administers the Watermelon Research and Promotion Plan (Plan) [7 CFR part 1210] under the supervision of the U.S. Department of Agriculture (USDA or the Department). The Plan was implemented in June 1989 under the Watermelon Research and Promotion Act (Act) [Pub. L. 99-198; enacted January 1, 1986; 7 U.S.C. 4901-4916, as amended].

Under the Plan, the National Watermelon Promotion Board (Board) conducts promotional, consumer information, and industry information programs. To fund these activities, producers and handlers pay 2 cents per hundredweight (cwt.) on the domestic watermelons that they produce or handle, respectively, and importers pay 4 cents per cwt. on the foreign watermelons they import into the United States. Handlers collect the assessments from producers of 10 or more acres of watermelons and send the producer assessment to the Board along with their handler assessments. The assessments on imported watermelons are collected by the U.S. Customs Service (Customs) at the time the watermelons enter the United States. Customs remits the assessments to the Board. Importers of less than 150,000 pounds of watermelons annually may request the Board to reimburse them for the assessments collected by Customs and remitted to the Board.

**Question and Answer Overview***Why Should All Handlers of Watermelons Pay Assessments Under the Plan?*

Between the farm and retail markets, watermelons are handled several times. The Plan currently only covers first handlers of watermelons—those who first put watermelons into the marketing chain. However, wholesalers, fresh-cut

processors, and other persons who arrange the sale or transfer of watermelons perform similar functions and benefit from the Board's promotion of watermelons. Therefore, the Board recommended that these additional handlers also be covered by the Plan. Including all handlers would simplify the assessment process because all—not just some—handlers would be required to pay assessments.

*What Would Be the Overall Impact of This Rule?*

Currently, there are approximately 619 first handlers required to pay assessments to the Board on the domestic watermelons they handle. If this amendment is approved, first handlers would be required by pay assessments on all watermelons they handle, including any watermelons handled domestically after their importation.

Also, an additional estimated 550 handlers—wholesalers, fresh-cut processors, and persons who arrange the sale or transfer of watermelons (such as brokers)—would be required to pay assessments for the first time. The additional handlers would not include retailers, wholesale retailers, foodservice distributors, or foodservice operators. If you are one of these handlers, you would be expected to pay an assessment to the Board of 2 cents per cwt. on the watermelons they handle, including any watermelons handled domestically after their importation into the United States. The assessment would be due not later than 30 days after the end of the month in which the watermelons were handled. You would also be required to submit to the Board with your assessments a report containing your name, address, and telephone number, the period covered by the report, and the total quantity of watermelons handled during the reporting period. If assessments are not paid on time, late payment charges and interest would be applied to the amount due, and you might be subject to civil penalties.

On the other hand, you will be eligible to be nominated and to serve as a handler member of the Board for the district in which you reside. This provides the opportunity to participate in the development and implementation of marketing and research projects which can impact all aspects of the industry, from field to store. You will also be eligible to vote in referenda relating to the Plan—including the referendum on this amendment.

### *How Will This Change Affect Board Operations?*

The main impact on the Board would be the availability of an additional \$900,000 in assessment income which would be used to benefit the watermelon industry as a whole through more marketing, public relations, education, and research activities. This has the potential to increase demand for watermelons.

### *How Can I Express My Opinion—Either For or Against—the Proposed Amendment?*

You have 60 days to submit a comment in writing to the address listed at the beginning of this rule. Comments may be submitted by mail, fax, or e-mail. In addition, if you are a watermelon producer, handler, or importer, you will have the opportunity to vote either “yes” or “no” in the national referendum which will be held on the amendment.

### *Why Is There Going To Be a National Referendum on the Amendment?*

The Act requires USDA to conduct a referendum on amendments to the Plan. Conducting a referendum allows the persons affected or potentially affected by the amendments the opportunity to vote on whether it should be adopted.

### *When Will the Vote Be Taken?*

It is expected that the referendum will be held in Fall 2001.

### *How Can I Vote in the Referendum?*

Referendum voting on this program normally takes place by mail. However, USDA is exploring the possibility of providing watermelon producers, handlers, and importers the opportunity to vote electronically. If adequate reliability and security can be obtained, voting will take place by mail and electronically. If adequate reliability and security cannot be obtained, voting will take place by mail. Regardless, all known eligible producers, handlers, and importers will receive a ballot and voting instructions in the mail from USDA. Producers, handlers, and importers who believe they are eligible to vote and who do not receive a ballot in the mail will be able to request a ballot by calling the USDA referendum agent at a toll-free telephone number. The voting period will last about one month.

### *What Criteria Will USDA Use To Decide Whether the Industry Wants the Amendment or Not?*

The amendment must be approved by a simple majority of the voters in the referendum.

### *If the Watermelon Industry Approves This Amendment, When Will It Become Effective?*

Most likely, the amendment would become effective for the 2002 marketing year which begins on April 1, 2002.

### **Executive Orders 12866 and 12988**

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

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

Section 1645 of the Act allows producers, handlers, and importers of watermelons who are subject to the Plan 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 in accordance with law. In the 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 decision, 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.

### **Regulatory Flexibility Act and Paperwork Reduction Act**

#### *Initial Regulatory Flexibility Analysis*

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) is required to examine the impact of this proposed rule on small entities. 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.

In 13 CFR 121.201, the Small Business Administration defines small agricultural service firms (handlers and importers) as those having annual receipts of less than \$5 million and small agricultural producers as those having annual receipts of not more than \$500,000.

Currently, there are approximately 2,220 producers of 10 or more acres of watermelons, 620 handlers, and 280 importers of more than 150,000 pounds of watermelons annually. If this rule is implemented, there would be an additional 550 handlers subject to the Plan: 480 wholesalers and persons who arrange the sale or transfer of watermelons and 70 fresh-cut processors. A majority of the producers, handlers, and importers may be classified as small entities.

This proposed rule would amend the Plan to cover all handlers of watermelons. If it is adopted, wholesalers, persons who arrange the sale or transfer of watermelons, and fresh-cut processors of watermelons—in addition to first handlers—would pay an assessment of 2 cents per cwt. on all watermelons they handle (including any watermelons handled domestically after their importation), file reports with the Board, keep records on their handling transactions, and be subject to penalties for noncompliance with the Plan. These additional handlers will also be eligible to be nominated to serve as handler members on the Board and to vote in referenda.

The watermelon industry as a whole could benefit from this rule. Covering all handlers under the Plan would simplify the assessment process and provide more income to the Board. The assessment process would be simplified because all handlers would be treated equally. No longer would the first handler be the only person paying the handler assessment. Covering all handlers is more workable in an actual business setting. Also, an additional 550 handlers paying assessments is likely to increase the income of the Board from \$1.3 million to \$2.2 million annually. As a result, there would be more funds available to the Board to increase the demand for watermelons, which would benefit producers, handlers, and importers alike, without increasing the rate of assessment.

The Board would use the additional revenue to increase post harvest research and to enhance its category management project. Category management is a new system used by major supermarket chains to manage supplies of the various products they sell. Each section of a supermarket is considered a category, and some sections—such as the produce section—contain several categories. With category management, the supermarket chains are less flexible in how much of a given product they want within a given time frame. In order to maintain or increase market share, the suppliers to the retail chains need to develop their

own category management plans. It is much more difficult for producers and suppliers of perishable items to fit into this system than producers and suppliers of non-perishable goods. This means that an effective category management program may be essential for a perishable agricultural commodity group. However, developing an effective category management program is expensive. The Board began developing its category management program in 2000. The Board's goal is to position watermelons as the leader in the melon category of the produce section. In order to maintain its category management program, the Board needs to purchase additional sales data and conduct additional consumer research. An effective category management plan has the potential to increase demand for watermelons. This would benefit producers, handlers, and importers.

The Board considered raising the assessment rate for producers, handlers, and importers by 50 percent in order to generate additional funds to grow demand for watermelons. However, watermelon producers are not in the position to increase their burden under the program, given the state of the industry. Therefore, this alternative was not considered viable. In the watermelon industry, just as in other fruit and vegetable industries, there are handlers that cover the assessment cost as a business expense, handlers that pass the cost back to producers, and handlers that pass the cost along to retailers and, hence, consumers. Therefore, it is likely that some of the additional assessments collected from the newly covered handlers would be passed back to first handlers, who may pass it back to producers. However, it is not anticipated that this will represent a majority of the additional assessments that would be collected. Any increased cost for producers is expected to be less than an overall increase in the producer assessment. In addition, any increased cost for producers or handlers is likely to be offset by the benefit of increased demand for watermelons.

The information collection requirements contained in this proposed rule are designed to minimize the burden on handlers covered by the watermelon research and promotion program. The estimated additional annual cost of providing the information by 550 new handlers would be \$2,750 or \$5 per new handler as discussed below.

There are no federal rules that duplicate, overlap, or conflict with this rule.

AMS has performed this initial Regulatory Flexibility Analysis

regarding the impact of this proposed rule on small entities. However, in order to have additional data that may be helpful in evaluating the effects of this rule on small entities, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule and information on the expected benefits and costs.

#### *Paperwork Reduction Act*

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that would be imposed by this rule have been submitted to OMB.

The information collection burden associated with current producers, handlers, and importers is already reflected in the information collection approved for use under OMB Number 0581-0093.

This proposed rule would add an information collection burden on the additional 550 handlers who would be subject to the Plan. The information collection burden includes filing reports and maintaining books and records under the Plan. Handlers are required to maintain such records for two fiscal years beyond the fiscal period of their applicability. The additional handlers would also be eligible to vote in referenda under the Plan, but the voting burden is associated with the ballot which is included in the proposed referendum procedures which are being published separately in this issue of the **Federal Register**.

*Title:* National Research, Promotion, and Consumer Information Programs.  
*OMB Number:* 0581-0093.

*Expiration Date of Approval:* March 31, 2001.

*Type of Request:* Revision of a currently approved information collection for research and promotion programs.

*Abstract:* The information collection requirements in this request are essential to carry out the intent of the Act.

The increase in burden associated with this rule is as follows:

#### 1. Handler's Report

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .75 hours per response.

*New Respondents:* Handlers.

*Estimated Number of New Respondents:* 550.

*Estimated Number of Responses per New Respondent:* 4 times a year.

*Estimated Total Annual Burden on New Respondents:* 1,650 hours

#### 2. A Requirement to Maintain Records Sufficient to Verify Reports Submitted Under the plan

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .50 hours per response.

*New Respondents:* Handlers.

*Estimated Number of New Respondents:* 550.

*Estimated Total Annual Burden on New Respondents:* 275 hours.

The estimated additional annual cost of providing the information by 550 new handlers would be \$2,750 or \$5 per new handler. The increase of 275 total burden hours would be added to the previous burden total of 314.5 hours under OMB No. 0581-0093.

Comments are invited on: (a) Whether the proposed additional collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed increase in the collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581-0093, the docket number, and the date and page number of this issue of the **Federal Register**. Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and within the time frames specified above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the increase in the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

## Background

The National Watermelon Promotion Board (Board) has recommended that the Watermelon Research and Promotion Plan (Plan) be amended to include all handlers of domestic watermelons due to an increased need to promote watermelons. In 1999, domestic production of watermelons totaled 4.1 billion pounds. This was a 12-percent increase over 1998. At the same time, the season average price of watermelons fell from \$7.71 per hundredweight (cwt.) in 1998 to \$6.49 per cwt. in 1999. This indicates that additional promotion of watermelons is needed.

The proposed amendment would increase the Board's assessment income by approximately \$900,000 to approximately \$2.2 million annually. It would also streamline the assessment payment and collection processes because all handlers would be covered—not just the first handler—because they perform similar functions in the marketing chain.

Section 1210.305 of the Plan currently defines a handler as any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons, including a producer who handles watermelons of the producer's own production. This means the first person who performs the handling function. Under § 1210.307 of the Plan, to handle means to grade, pack, process, sell, transport, purchase, or in any other way to place or cause watermelons to which one has title or possession to be placed in the current of commerce. The handling function does not include the transportation or delivery of field run watermelons by a producer to a handler for grading, sizing, or processing.

Currently, 691 first handlers pay an assessment of 4 cents per cwt. on the watermelons that they handle, file reports with the Board for the months in which they handle watermelons, and maintain records of their handling transactions for a period of two years after the year in which they occurred. In 1999, the average handler assessment was \$1,640.

Assessment payments and a report must be postmarked not later than 30 days after the end of the month in which the watermelons are handled. If a handler does not remit the assessments to the Board on time, the Board imposes a one-time late payment charge of 10 percent. In addition, handlers are charged 1.5 percent per month interest on the outstanding balance. The failure to pay assessments is considered a violation of the Act and

the Plan. If a handler does not pay the assessments which are due, the Board may audit the handler's records and request USDA to take legal action against the handler. If USDA takes legal action, the handler may be subject to civil penalties from \$550 to \$5,500 per violation.

The Board has identified additional 550 handlers who would be required to pay the same assessment, file the same reports, and maintain the same records as first handlers on all they handle, including any watermelons handled domestically after their importation, if this amendment is adopted. The additional handlers are wholesalers, fresh-cut processors, and other persons who arrange the sale or transfer of watermelons. These handlers would also be subject to the same penalties for non-payment of assessments.

The additional handlers would also be eligible to serve as handler members on the Board and vote in referenda. Serving on the Board provides the opportunity to participate in the development and implementation of marketing and research projects which can impact all aspects of the industry, from the field to the consumer's table. Voting in referenda provides the right to vote on changes in the program—including the current proposed amendment—and on whether the program should continue or be terminated.

To include all handlers under the Plan, this proposed rule would revise § 1210.305 by eliminating the reference to the first person who performs the handling function and by adding a statement that handler does not mean a retailer, wholesale retailer, foodservice distributor, or foodservice operator.

In addition, this rule would amend §§ 1210.308 and 1210.341(a) of the Plan, §§ 1210.402(b) and 1210.404(d) of the nominating procedures issued under the Plan, and §§ 1210.515(a) and 1210.518(a) and (b) of the rules and regulations issued under the Plan in order to remove references to first handlers. It is also necessary to amend §§ 1210.341(c) and 1210.350(a) of the Plan to clarify the assessment and reporting requirements for all handlers. Since § 1210.517 (which concerns determining first handlers) would no longer be necessary if all handlers are covered by the Plan, that section would be removed and reserved. In addition, this rule would add a new § 1210.518(b)(3) to state that the handling party is responsible for the payment of assessments on any handling of watermelons.

This rule would also redesignate §§ 1210.301 through 1210.314 of the

Plan as necessary to arrange the definitions in alphabetical order.

A proposed rule to establish procedures for the referendum on these amendments to the Plan and future referenda is published separately in this issue of the **Federal Register**.

The proposed rule on referendum procedures also adds letter designations to the various subparts of the watermelon research and promotion program as follows: the Plan (§§ 1210.301 through 1210.367) would become Subpart A; the Procedures for Nominating Members to the National Watermelon Promotion Board (§§ 1210.400 through 1210.405) would become Subpart B; the Rules and Regulations (§§ 1210.500 through 1210.540) would become Subpart C; and the proposed Referendum Procedures (proposed §§ 1210.600 through 1210.607) would become Subpart D.

The Act requires a referendum for all amendments to the Plan (Subpart A) except a change in the rate of assessment, which may be made after notice-and-comment rulemaking. The Act does not require a referendum for changes to Subparts B, C, and D. Therefore, the proposed amendments to the Plan which are contained in this rule would be the subject of the upcoming referendum. The proposed amendments to Subpart B (nominating procedures) and Subpart C (rules and regulations) which are contained in this rule can be made without a referendum. However, since they are needed only if the amendments to the Plan are approved in the referendum, they will be adopted only if the amendments to the Plan are approved in the referendum.

## 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, it is proposed that 7 CFR Part 1210 be amended as follows:

## PART 1210—WATERMELON RESEARCH AND PROMOTION

1. The authority citation for 7 CFR part 1210 continues to read as follows:

**Authority:** 7 U.S.C. 4901–4916.

2. Redesignate §§ 1210.301 through 1210.314 as follows:

| Old section    | New section |
|----------------|-------------|
| 1210.301 ..... | 1210.313    |
| 1210.302 ..... | 1210.301    |
| 1210.303 ..... | 1210.308    |

| Old section    | New section |
|----------------|-------------|
| 1210.304 ..... | 1210.302    |
| 1210.305 ..... | 1210.314    |
| 1210.306 ..... | 1210.309    |
| 1210.307 ..... | 1210.304    |
| 1210.308 ..... | 1210.305    |
| 1210.309 ..... | 1210.307    |
| 1210.310 ..... | 1210.303    |
| 1210.311 ..... | 1210.310    |
| 1210.312 ..... | 1210.311    |
| 1210.313 ..... | 1210.312    |
| 1210.314 ..... | 1210.306    |

3. Newly designated § 1210.305 is revised to read as follows:

**§ 1210.305 Handler.**

*Handler* means any person (except a common or contract carrier of watermelons owned by another person) who handles watermelons, including a producer who handles watermelons of the producer's own production. *Handler* shall not mean a retailer, wholesale retailer, foodservice distributor, or foodservice operator.

4. In § 1210.341, paragraphs (a) and (c) are revised to read as follows:

**§ 1210.341 Assessments.**

(a) Assessments shall be levied on all watermelons produced and handled in and imported into the United States for consumption as human food. Producers shall be assessed 2 cents per hundredweight on the watermelons that they produce. Handlers shall be assessed 2 cents per hundredweight on all watermelons that they handle, including any watermelons handled after their importation into the United States. If a person performs both a producing and a handling function on any lot of domestic watermelons, the person shall pay both the producer assessment and the handler assessment on those watermelons. Importers shall be assessed 4 cents per hundredweight on the watermelons they import at the time of entry of the watermelons into the United States.

\* \* \* \* \*

(c) Each handler is responsible for payment of the handler assessment to the Board, and each handler who purchases watermelons from a producer is responsible for the collection and payment to the Board of both the producer assessment and the handler's own assessment. A handler who purchases watermelons from a producer may collect the producer assessment from the producer or deduct the assessment from the proceeds paid to the producer on whose watermelons the

assessments are made. A handler who purchases from a producer shall maintain separate records for each producer's watermelons handled, including watermelons produced by the handler. In addition, all handlers shall maintain records that indicate the total quantity of watermelons handled by the handler, including those that are exempt under this Plan, and such other information as may be prescribed by the Board.

\* \* \* \* \*

5. In § 1210.350, paragraph (a) introductory text is revised to read as follows:

**§ 1210.350 Reports.**

(a) Handlers shall report to the Board at such times and in such manner as the Board may prescribe by regulations whatever information may be necessary in order for the Board to perform its duties. In addition, each handler who purchases watermelons from a producer shall maintain a record with respect to each producer for whom watermelons were handled and for watermelons produced and handled by the handler. Such reports may include, but shall not be limited to, the following information:

\* \* \* \* \*

6. In § 1210.402, paragraph (b) is revised to read as follows:

**§ 1210.402 Voter and board member nominee eligibility.**

\* \* \* \* \*

(b) Any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity which is engaged in the production or handling of watermelons is considered a person and as such is entitled to only one vote, except that such person may cast proxy votes as provides in § 1210.403 and § 1210.404 of this subpart.

\* \* \* \* \*

7. In § 1210.404, paragraph (d) is revised to read as follows:

**§ 1210.404 Importer member nomination and selection.**

\* \* \* \* \*

(d) Any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity which is engaged in the importing of watermelons is considered a person and as such is entitled to only one vote, except that such person may cast proxy votes as provided in paragraph (e)(1) of this section.

\* \* \* \* \*

8. In § 1210.515, paragraph (a) is revised to read as follows:

**§ 1210.515 Levy of assessments.**

(a) An assessment of 2 cents per hundredweight shall be levied on all watermelon produced in the United States for ultimate consumption as human food. An assessment of 2 cents per hundredweight shall be levied on all watermelons handled for ultimate consumption as human food. An assessment of 4 cents per hundredweight shall be levied on all watermelons imported into the United States for ultimate consumption as human food at the time of entry into the United States.

\* \* \* \* \*

9. Section 1210.517 is removed and reserved.

10. In § 1210.518, paragraphs (a) and (b)(1) are revised and a new paragraph (b)(3) is added to read as follows:

**§ 1210.518 Payment of assessments.**

(a) *Time of payment.* The assessment of domestically produced watermelons shall become due at the time of each handling of the watermelons for non-exempt purposes. The assessment on imported watermelons shall become due at the time of entry, or withdrawal, into the United States and at the time of each subsequent handling.

(b) *Responsibility of payment.* (1) A handler who purchases watermelons from a producer is responsible for collection and payment of both the producer's and the handler's assessment. A handler may collect the producer's assessment from the producer or deduct the producer's assessment from the proceeds paid to the producer on whose watermelons the producer assessment is made. Any such collection or deduction of producer assessment shall be made not later than the time when the handler handles the watermelons.

\* \* \* \* \*

(3) The payment of assessments on any handling of watermelons is the responsibility of the handling party.

\* \* \* \* \*

Dated: April 23, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01-10600 Filed 4-27-01; 8:45 am]

**BILLING CODE 3410-02-P**