

Note: The new heading will appear in the Code of Federal Regulations.

## PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

2. New § 927.229, is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

### § 927.229 Expenses and assessment rate.

Expenses of \$4,104,779 by the Winter Pear Control Committee are authorized, and an assessment rate of \$0.335 per standard box, or equivalent, of pears is established for the fiscal year ending June 30, 1990. Unexpended funds from the 1989-90 fiscal year may be carried over as a reserve.

Dated: September 11, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-21825 Filed 9-14-89; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR Parts 931 and 932

[Docket No. FV-89-086 FR]

### Expenses and Assessment Rate for Marketing Order Covering Fresh Bartlett Pears Grown in Oregon and Washington; Increase in Expenses for Marketing Order Covering Olives Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 931 for the 1989-90 fiscal period which began July 1. The action is needed for the Northwest Fresh Bartlett Pear Marketing Committee established under M.O. 931 to incur operating expenses during the 1989-90 fiscal period and to collect funds during that period to pay those expenses. This will facilitate program operations. This final rule also authorizes an increase in expenditures for the California Olive Committee established under Marketing Order No. 932 for the 1989 fiscal year. This increase is needed to cover increased production research costs. Funds to administer these programs are derived from assessments on handlers.

**EFFECTIVE DATE:** July 1, 1989, through June 30, 1990, (§ 931.224); January 1, 1989, through December 31, 1989, (§ 932.223).

**FOR FURTHER INFORMATION CONTACT:** Patrick Packnett, Marketing Order

Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-475-3862.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Marketing Order No. 931 (7 CFR Part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington and Marketing Agreement and Marketing Order No. 932 (7 CFR part 932) regulating the handling of olives grown in California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

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

There are approximately 72 handlers of fresh Bartlett pears and seven handlers of California olives regulated under their respective marketing orders, and approximately 1,900 Bartlett pear producers in Washington and Oregon and 1390 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than \$3,500,000. The majority of the handlers and producers of Bartlett pears may be classified as small entities. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

Each marketing order administered by the Department of Agriculture (Department) requires that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of

expenses is prepared by each administrative committee and submitted to the Department for approval. The members of the administrative committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas, and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing the anticipated expenses by the expected shipments of the commodity (i.e., pounds, tons, boxes, cartons, etc.). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Northwest Fresh Bartlett Pear Marketing Committee met July 10, 1989, and unanimously recommended 1989-90 fiscal period expenditures of \$81,386 and an assessment rate of \$0.015 per standard box or equivalent of assessable pears shipped under M.O. 931. In comparison, 1988-89 fiscal period budgeted expenditures were \$53,800 and the assessment rate was the same as recommended for the 1989-90 fiscal period. These expenditures are primarily for program administration. The increase in the budget from 1988-89 is due to a \$7,980 increase in salaries and a \$15,451 increase in contingencies for unexpected expenditures. Other budget categories were increased or decreased slightly.

Assessment income for the 1989-90 fiscal period is expected to total \$38,758 based on the shipment of 2,583,855 packed boxes of pears at \$0.015 per standard box or equivalent. Other available funds include a reserve of \$40,628 carried into this fiscal period, and \$2,000 in miscellaneous income, primarily from interest bearing accounts. The reserve is within the limits authorized under the marketing order.

A final rule establishing expenses in the amount of \$1,883,290 for the California Olive Committee for the fiscal year ending December 31, 1989, was published in the Federal Register on February 6, 1989 (54 FR 5585). That



action also fixed an assessment rate of \$25.39 per ton of assessable olives received by handlers under M.O. 932 during the 1989 fiscal year.

At a meeting held on July 11, 1989, the California Olive Committee voted unanimously to increase its budget of expenses from \$1,883,290 to \$1,902,322. The \$19,032 increase is needed to cover increased production research costs and the cost of printing and disseminating the results of a completed research project.

Adequate funds are available to cover the increased olive committee expenses resulting from this action. Hence, no change in the assessment rate was recommended.

A proposed rule inviting comments on these actions was published in the *Federal Register* on August 16, 1989 (54 FR 33706). The comment period ended August 28, 1989. No comments were received.

While the expenses and assessment rate authorized under M.O. 931 and the increase in expenses authorized under M.O. 932 will impose some additional costs on Bartlett pear and olive handlers, the costs for each program are in the form of uniform assessments on all handlers regulated under such program. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that these actions will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the olive and Bartlett pear committees, and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Approval of the level of expenses and assessment rate for the Bartlett pear program and the increase in expenses for the olive program should be expedited because the committees need authority to incur reasonable expenses and sufficient funds to pay those expenses, which are incurred on a continuous basis. Therefore, it is also found that good cause exists for not postponing the effective date of these actions until 30 days after publication in the *Federal Register* (5 U.S.C.).

#### List of Subjects

##### 7 CFR Part 931

Bartlett pears, Marketing agreements and orders, Oregon, and Washington.

##### 7 CFR Part 932

California, Marketing agreements and orders, Olives.

For the reasons set forth in the preamble, a new § 931.224 is added and § 932.223 is amended as follows:

**Note:** These sections will not appear in the Code of Federal Regulations.

1. The authority citation for 7 CFR parts 931 and 932 continues to read as follows:

**Authority:** Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. New § 931.224 is added to read as follows:

#### **PART 931—FRESH BARLETT PEARS GROWN IN OREGON AND WASHINGTON**

##### **§ 931.224 Expenses and assessment rate.**

Expenses of \$81,386 by the Northwest Fresh Bartlett Pear Marketing Committee are authorized, and an assessment rate of \$0.015 per standard box or equivalent of assessable pears is established, for the fiscal period ending June 30, 1990. Unexpended funds from the 1989-90 fiscal period may be carried over as a reserve.

3. Section 932.223 is amended as follows:

#### **PART 932—OLIVES GROWN IN CALIFORNIA**

##### **§ 932.223 [Amended]**

Section 932.223 is amended by changing "\$1,883,290" to "\$1,902,322".

Dated: September 11, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-21826 Filed 9-14-89; 8:45 am]

BILLING CODE 3410-02-M

##### 7 CFR Part 1210

[WRPA Docket No. 1; FV-89-056]

RIN 0581-AA32

#### **Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board**

**AGENCY:** Agricultural Marketing Service (USDA).

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes and invites comments on procedures for the nomination of producer and handler members to the National Watermelon Promotion Board (Board). The Watermelon Research and

Promotion Act (Act) (7 U.S.C. 4901-4916) authorized the promulgation of the Watermelon Research and Promotion Plan (Plan) which became effective on June 8, 1989 (54 FR 24543). The Plan calls for the establishment of a Board, composed of 14 producer members, 14 handler members, and one member representing the general public. This Board is responsible for administering the Plan and collecting assessments on watermelons in order to fund the activities conducted under the Plan. This interim final rule will allow the U.S. Department of Agriculture (Department) to conduct initial industry nominations and the Board to conduct subsequent industry nominations for members to serve on the Board. The Plan establishes seven watermelon-producing districts within the contiguous United States for the purpose of nominating members to the Board. The Secretary of Agriculture will select two producer members and two handler members to the Board from each district.

**DATES:** This interim final rule is effective on September 15, 1989. Comments which are received by November 14, 1989, will be considered prior to any finalization of this interim final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the *Federal Register*. A copy of comments received will be made available for public inspection at the office of the Docket Clerk during regular business hours. Comments concerning the information collection and paperwork requirements of this subpart should be sent to Lisa Grove, Office of Information and Regulatory Affairs, Room 3228, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Richard H. Mathews, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525-South, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 475-3916.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under the Watermelon Research and Promotion Plan (7 CFR part 1210). The Plan is effective under the Watermelon Research and Promotion Act (title XVI, subtitle C of Pub. L. 99-198, 7 U.S.C. 4901-4916), hereinafter referred to as the Act.



This interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the RFA.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Plan issued pursuant to the Act, and rules issued thereunder, are brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act have small entity orientation and compatibility.

The record indicates most handlers regulated under this program would meet the Small Business Administration (SBA) definition of small agricultural service firms (13 CFR 121.2). Small agricultural service firms are defined as those having annual gross receipts, for the last three years, of less than \$3,500,000. There may be as many as 300 such handlers of watermelons who are subject to regulation under the Plan. Small agricultural producers are defined by the SBA as having revenues, for the last three years, of less than \$500,000. Hearing evidence indicates that watermelons are produced on almost 12,000 farms in the United States. Many farms produce less than five acres of watermelons and thus are exempted from the provisions of the Plan. The industry also includes a few large farms in excess of 400 acres.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection and reporting provisions that are included in this interim final rule have been approved by the Office of Management and Budget (OMB) and assigned OMB Control No. 0581-0158. The information collection and reporting provisions of this rule implement the information collection and reporting provisions found in Plan §§ 1210.321 and 1210.323. This rule includes provisions concerning lists of nominees, nominee qualification and acceptance forms, and proxy voting documentation.

Pursuant to § 1210.322 of the Plan, producer and handler members to the Board serve staggered terms of office, some of which expire each year. Accordingly, every year, one-third of the

producers and handlers will nominate fellow producers and handlers for appointment to the Board. Each district chairperson will be required to provide the Department with a list of nominees and a copy of the district nomination convention's minutes. Producers and handlers in each district will nominate two producers and two handlers for each of the district's two producer and two handler positions on the Board.

It is estimated that it will take approximately 30 minutes for each district convention chairperson to provide the required information to the Department and approximately 10 minutes for each of the nominees to complete the qualification statement and acceptance form. The Department has estimated that each year approximately 250 producers and handlers will avail themselves of the opportunity to cast proxy votes. It is estimated that it will take approximately 5 minutes for each proxy voter to complete the proxy form. The Department has further estimated that as many as 50 producers and handlers who operate in more than one State or district will be required to elect, in writing to the Board, the State or district in which they intend to participate in the nomination process. It is estimated that it will take approximately 15 minutes for each to make the written election. Comments concerning these requirements should be directed to Lisa Grove, Office of Information and Regulatory Affairs, Room 3228, Office of Management and Budget, Washington, DC 20503.

The Act authorizes the development of nationally coordinated programs of market research and promotion designed to improve the position of watermelons in the marketplace. To effectuate the provisions of the Act, the Secretary of Agriculture issued the Plan effective June 8, 1989 (54 FR 24543). The Plan provides for a national research and Promotion program for watermelons financed by assessments paid by producers who grow five or more acres of watermelons annually, and by handlers who first handle such watermelons. The Plan, further, establishes a 29-member board composed of watermelon producers, handlers and a representative from the general public to administer the program. Operating under the provisions of the Plan, the Board will conduct nationally coordinated research and promotion programs, including paid advertising, designed to result in an increase in demand, and thus an increase in per capita watermelon consumption with a resulting benefit to the industry.

This rule establishes procedures for the nomination of watermelon producers and handlers for appointment by the Secretary to the Board. All eligible producers and handlers of watermelons will be allowed the opportunity to participate in these nominations. These procedures will also apply to filling vacancies that occur after selection of the initial Board.

The 29-member Board will consist of 14 producer members, 14 handler members, and one public member. Members will be appointed by the Secretary of Agriculture and will serve three-year terms, except that the members of the initial Board will serve terms as follows: The four producer and four handler members from district 1 (south Florida) and district 6 (Texas), and the public member will serve one-year initial terms ending on December 31, 1990; four producer and four handler members from district 2 (north Florida) and district 3 (Georgia and Alabama) will serve two-year initial terms ending on December 31, 1991; and the remaining six producer and six handler members from districts 4, 5, and 7 will serve three-year initial terms ending on December 31, 1992. As provided by § 1210.322 of the Plan, the term of office for the initial Board will begin immediately following appointment by the Secretary. In subsequent years, the term of office will begin on January 1 or such other date which may be approved by the Secretary.

As provided by the Plan, all producers of watermelons and all handlers, as those terms are defined by the Plan, may participate in the nomination process. In conformance with § 1210.321 of the Plan, producers who handle 50 percent or less of their own production will be considered producers, and producers who handle more than 50 percent of their own production will be considered handlers. Also, as provided by § 1210.321 of the Plan, producers and handlers engaged in the production or handling of watermelons in more than one State or district will participate in the nomination process within the State or district in which the producer or handler so elects in writing to the Board. Such election shall remain in effect until revoked in writing to the Board. For the purpose of participation in the initial nomination process, such election shall be made in writing to the Department official identified in the call for district conventions.

Producers and handlers from the 48 contiguous States may attend and participate in their district conventions or authorize fellow producers or handlers from their district or, in the



case of multi-State districts from their State, to cast proxy votes for board member nominees on their behalf at their district convention. Authorization to cast a proxy vote will be demonstrated through documentation containing: (1) The proxy voter's name, address and telephone number; (2) signature and date signed; (3) a certification identifying the proxy voter as a producer or a handler; and (4) a statement identifying the person given authority by the proxy voter to cast the proxy vote. Proxy voting will provide a means by which districts can obtain greater producer and handler participation in the nomination process. Proxy voting will reduce, for both producers and handlers, the cost and time of participation in the nomination process. The Board, or in the case of the initial conventions the Department representative identified in the call or other representative of the Department, may challenge any proxy vote and disqualify any challenged vote for cause. In the case of duplicate proxy authorizations by any person, only the first authorization, determined by its date, will be allowed. In the case of duplicate dates, the proxy which is received first will be allowed.

In conformance with the Plan, producers will nominate producer candidates, and handlers will nominate handler candidates for appointment to the Board by the Secretary of Agriculture. Two individuals will be nominated for each vacant position. In multi-State districts, for the sake of balanced representation within the district and as required by the terms of § 1210.321(d)(2) of the Plan, no one State will be represented by more than three of the four positions on the Board from that district.

Except for the initial district convention in each district, which will be called and opened by a representative of the Secretary, the Board will call and open all district conventions and preside until the election of each chairperson. The Board will conduct all district conventions except the initial ones, in each district. The Department will conduct the initial conventions.

Individuals at each district convention will elect a chairperson to preside over the nomination process. In non-multi-State districts, election to the position of chairperson will be by simple majority of all eligible voters in attendance. In multi-State districts, election will be by majority vote of all States present with each State's vote(s) determined by a majority vote of the eligible voters from that State in attendance. Each such

State is entitled to one vote, plus one additional vote for each 500,000 hundredweight volume of production in the State as determined by the three-year average annual crop production summary reports of the Department or, if such reports are not published, then the three-year average of the Board's assessment reports; except, that for the first two conventions, the Department's Crop Production Annual Summary Reports for 1979, 1980, and 1981 will be controlling as to any additional production volume votes. Should no candidate receive the required simple majority on the first ballot, the number of candidates may be reduced by dropping one or more of the lowest vote recipients from the list of candidates as is the case for State spokesperson and Board member nominees. The balloting will be repeated until a selection is made. The tenure of the chairperson is for the duration of the convention and submission of required documentation only.

The Board member nomination process will be conducted in accordance with the provisions of § 1210.321 of the Plan. Voting in non-multi-State districts will be on the basis of one vote per eligible producer or handler, except that producers and handlers authorized to cast proxy votes for other producers and handlers, will be allowed to cast all valid proxy votes in their possession. In multi-State districts, the district chairperson will direct the eligible producer voters and handler voters from each State to caucus separately for the purpose of electing a State spokesperson for each group. Election of each State spokesperson will be by simple majority of all individual voters in attendance. In lieu of written ballots, a State spokesperson may be elected by voice vote or a show of hands. The role of the State spokesperson is to coordinate State voting and to cast all State votes. Voting in multi-State districts is a two-stage process. First, within State groups, producers vote for producer nominees, and handlers vote for handler nominees. The producer nominees and handler nominees receiving at least a simple majority of all votes (including proxy votes) cast will receive the State's vote(s) to be cast by the State spokesperson. The second stage will be State-by-State voting with each State represented at the convention authorized one vote for each nominee to a producer position and one vote for each nominee to a handler position from the district. In addition, each such State is authorized an additional vote toward the nominees for each position for each 500,000 hundredweight of watermelon

production in that State, based on the three-year average production indicated by published Department Crop Production Annual Summary Reports. If such reports are not published, the three-year average production reflected in the Board's assessment reports will be used. For the first two calls for nominees, the above Department crop production reports for 1979, 1980, and 1981 will be used to determine voting representation.

Two nominees will be selected for each of the two producer and two handler positions from each district on the Board. There will be a separate selection procedure for each nominee. No individuals selected as a nominee for Board membership may be a candidate on subsequent Board member nominee ballots (i.e., four different producer names and four different handler names must be submitted for the two producer members and the two handler members from each district, as nominees, to the Secretary of Agriculture). The first nominee elected to each position will be the district's first choice nominee for each producer and each handler position on the Board. Further, in multi-State districts, no State will have nominees for more than three of the four district positions on the Board.

Each district convention chairperson will provide the Department the names of the two nominees for each producer and handler position on the Board to be filled and a typed copy of the district convention's minutes. For the conventions for the initial term of office, this information is to be provided to the Department official identified in the call for convention no later than 14 calendar days after the convention's conclusion. For subsequent conventions, this information will be submitted to the Board and the Department official no later than 14 calendar days after the convention's conclusion. The chairperson is responsible for forwarding this material. In addition, the chairperson will arrange for the district's nominees to complete qualification and acceptance statements and other specified information and forward such to the Department within 14 calendar days after the convention.

After consideration of all available information, it is found that these procedures, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Based on available information, the Administrator of the AMS has determined that issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.



Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Board must be nominated, selected, and start to function as soon as possible so that the Plan may be implemented as early in the 1990 marketing year as possible—initial watermelon shipments for 1990 are expected in mid-March; (2) in order to meet this timeframe, the district conventions need to be scheduled for September 1989 so the Secretary can appoint the initial Board and it can meet in November 1989 to draft implementing regulations, adopt bylaws, prepare a budget, initiate the hiring of a manager, and select a location for the Board office; (3) the procedures for nominations and elections of watermelon producers and handlers, for appointment to the Board, need to be issued in advance of all district conventions; and (4) prompt issuance of this action is necessary because watermelon producers and handlers need to be informed of the procedures to be used in the district conventions. All written comments received in response to this publication, by the date specified herein, will be considered prior to any finalization of this interim final rule.

#### List of Subjects in 7 CFR Part 1210

Agricultural promotion, Agricultural research, Market development, Reporting and recordkeeping requirements, Watermelons.

For the reasons set forth in the preamble, chapter XI of title 7 shall be amended by adding a subpart to part 1210 to read as follows:

#### PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

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

Authority: 7 U.S.C. 4901-4916.

2. 7 CFR part 1210, is hereby amended by adding subpart—Procedures for Nominations and Elections of Watermelon Producers and Handlers for Appointment to the National Watermelon Board (§§ 1210.400-1210.405), to read as follows:

**Note:** This subpart will appear in the annual Code of Federal Regulations.

#### Subpart—Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board

Sec.

- 1210.400 Terms defined.
- 1210.401 District conventions.
- 1210.402 Voter and board member nominee eligibility.
- 1210.403 Voting procedures.
- 1210.404 Paperwork Reduction Act assigned number.

#### Subpart—Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board

##### § 1210.400 Terms defined.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart—Watermelon Research and Promotion Plan.

##### § 1210.401 District conventions.

(a) Except for the initial district convention in each district, which will be called and opened by a representative of the Secretary, the Board shall call and open all district conventions.

(b) District conventions are to be held to nominate producers and handlers as candidates for membership on the National Watermelon Promotion Board. The Board consists of 14 producers, 14 handlers, and 1 public member appointed by the Secretary. Each district, as defined in § 1210.320 of the Plan, is entitled to two producer and two handler members on the Board.

(c) There shall be two individuals nominated for each vacant position. In multi-State districts, no one State shall have nominees for more than three of the four district positions on the Board.

(d) All producers and handlers within each district may participate in that district's convention: *Provided*, That they meet the eligibility provisions set forth in § 1210.402 of this subpart.

(e) The convention chairperson shall be elected as provided in § 1210.403(b) of this subpart.

(f) The Board member nomination process shall be conducted by the chairperson in conformance with the provisions of § 1210.321 of the Plan and § 1210.403 of this subpart. At the conclusion of the district convention for the initial term of office, the chairperson will provide the Secretary with:

(1) The identification of that district's two nominees for each producer and handler position on the Board, and

(2) A typed copy of the district convention's minutes.

This information must be provided by the chairperson to the Department

representative identified in the call for district convention in a manner that will ensure receipt, at the address specified in the call, within 14 calendar days of district convention's completion. For subsequent terms of office, the chairperson will provide the above-described information to both the Board and the Department official. Further, the chairperson will arrange for completion of qualification statements and other specified information by each nominee and forward such to the Secretary within 14 calendar days of completion of the district convention.

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

(a) All producers and all handlers within a district may participate in their district convention for the purpose of nominating candidates for appointment to the Board: *Provided*, That producers who handle 50 percent or less of their own production may vote for producer nominees and serve as producer nominees only, and producers who handle more than 50 percent of their own production are considered to be handlers and may vote for handler nominees and serve as handler nominees only; and *Provided further*, That if a producer or handler is engaged in the production or handling of watermelons in more than one State or district, the producer or handler shall participate within the State or district in which the producer or handler so elects in writing to the Board and such election shall remain controlling until revoked in writing to the Board. For the purpose of participation in initial nominating conventions, such election shall be made in writing, at the address provided, to the Department official identified in the call for a district convention.

(b) Any individual, group of individuals, partnership, corporation, association, cooperative or any other entity which is engaged in the production or first 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 provided in § 1210.403 of this subpart.

(c) All producers and handlers attending their district conventions may be candidates for one or more of the positions of State spokesperson, district convention chairperson, and producer or handler nominee.

##### § 1210.403 Voting procedures.

(a) Proxy voting by producers and handlers for producer and handler nominees shall be permitted at all



district conventions: *Provided*, That producers may cast proxy votes for producers only, and handlers may cast proxy votes for handlers only. In non-multi-State districts, proxy voting shall be permitted for all producer and handler nominee balloting to determine the districts' nominees. In multi-State districts, proxy voting shall be permitted for all producers and handlers participating in a State's balloting to determine the State's nominees. No other proxy voting, such as for district convention chairperson, shall be allowed. Any person wanting to cast proxy votes must demonstrate authorization to do so. Authority to cast a proxy vote on behalf of another person shall be demonstrated through documentation containing:

- (1) The proxy voter's name, address, and telephone number;
- (2) Signature and date signed;
- (3) A certification identifying the proxy voter as a producer or a handler;
- (4) A statement identifying the person being given authority by the proxy voter to cast the proxy vote.

All proxy documentation must be received by the Board at its headquarters address at least two weeks before the district convention is scheduled to convene. For the purpose of the initial district convention, all proxy documentation must be forwarded to the Department representative identified in the call for the district convention in a manner that will ensure receipt, at the address specified in the call, at least 72 hours before the district convention is scheduled to convene. The Board, or in the case of the initial conventions the Department representative identified in the call or other representative of the Department, may challenge any proxy vote and disqualify any challenged vote for cause. In the case of duplicate proxy authorizations by any person, only the first authorization, determined by date will be allowed. In the case of duplicate dates, the proxy which is received first will be allowed.

(b) In non-multi-State districts, convention chairpersons shall be elected by a majority vote of the eligible voters in attendance. In multi-State districts, the election shall be by majority vote of all States present with each State's vote(s) determined by a majority vote of the eligible voters of that State in attendance. Each such State is entitled to one vote, plus one additional vote for each 500,000 hundredweight volume of production in the State as determined by the three-year average annual crop production summary reports of the Department or, if such reports are not

published, then the three-year average of the Board's assessment reports: *Provided*, That for the first two conventions, the Department's Crop Production Annual Summary Reports for 1979, 1980, and 1981 will be controlling as to any additional production volume votes.

(c) In multi-State districts 3, 4, 5 and 7, the convention chairperson will direct the eligible producer voters and handler voters from each State to caucus separately for the purpose of electing a State spokesperson for each group. Election of each State spokesperson shall be by simple majority of all individual voters in attendance. In lieu of written ballots, a State spokesperson may be elected by voice vote or a show of hands. The role of the State spokesperson is to coordinate State voting and to cast all State votes.

(d) Convention chairpersons will coordinate the entire producer and handler nomination process. In conducting the nomination process, each convention chairperson will ensure that:

(1) Voting for producer nominees is limited to producers, and voting for handler nominees is limited to handlers; and

(2) Producer candidates for nomination are producers, and handler candidates for nomination are handlers.

(e) Voting, for producer and handler nominees, in non-multi-State districts shall be on the basis of one vote per person, except that persons authorized to cast proxy votes shall be allowed to cast all proxy votes not disallowed by the Board or the Department. Election of nominees shall be on the basis of a simple majority of all eligible votes cast.

(f) Voting for producer and handler nominees in multi-State districts shall be on a State by State basis. Producers and handlers from each State shall caucus separately, at the district convention, for the purpose of determining which nominees shall receive their State's vote(s) for membership on the Board. Each State's vote(s) shall be based on a simple majority of all votes (including proxy votes) cast by producers or handlers voting in their State's caucus. Each State represented at a multi-State district convention shall have one vote for each producer position and one vote for each handler position from the district on the Board. Each State shall further have an additional vote toward each position for each 500,000 hundredweight volume of production in the State as determined by the three-year average annual crop production summary reports of the Department or, if such reports are not published, then the three-year average of the Board's assessment reports: *Provided*, That for

the first two calls for nominees, the Department's Crop Production Annual Summary Reports for 1979, 1980, and 1981 will be controlling as to any additional production volume votes. Each State spokesperson will cast the State's vote(s) for each nominee position. Election of nominees shall be on the basis of a simple majority of all State votes cast.

(g) During the voting for convention chairperson, State spokesperson, and Board member nominee, should no candidate receive the required simple majority on the first ballot, the number of candidates may be reduced by dropping one or more of the lowest vote recipients from the list of candidates. The balloting will be repeated until the position is filled.

(h) Two nominees shall be elected for each of the two producer and two handler positions from each district on the Board. There shall be a separate election for each nominee. No individuals elected as a nominee for Board membership may be a candidate on subsequent Board member nominee ballots (i.e., four different producer names and four different handler names must be submitted, as nominees from each district, to the Secretary of Agriculture). The first nominee elected to each position shall be the district's first choice nominee for each producer and each handler position on the Board.

#### § 1210.404 Paperwork Reduction Act assigned number.

The OMB has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. chapter 35, and OMB Control Number 0581-0158 has been assigned.

Signed at Washington, DC, on September 11, 1989.

Eric M. Forman,  
Acting Director, Fruit and Vegetable Division.  
[FR Doc. 89-21677 Filed 9-14-89; 8:45 am]  
BILLING CODE 3410-02-M

#### 7 CFR Part 1250

[Docket No. PY-89-003]

#### Egg Research and Promotion

**AGENCY:** Agricultural Marketing Service.  
**ACTION:** Final rule.

**SUMMARY:** This rule amends the American Egg Board's (the Board) rules and regulations governing the collection of egg research and promotion assessments. The rule increases the rate of assessment for the activities of the Board from 2.5 cents per 30-dozen case of eggs marketed to 5 cents. The