It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1994–95 fiscal year for the programs began on April 1, 1994. The marketing orders require that the rates of assessment for the fiscal year apply to all assessable limes and avocados handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committees at public meetings and published in the **Federal Register** as an interim final rule. No comments were received concerning the interim final rule that is adopted in this action, with appropriate changes, as a final rule.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 911 and 915 are hereby amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR parts 911 and 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 911.232 is revised to read as follows:

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

§ 911.232 Expenses and assessment rate.

Expenses of $92,197 by the Florida Lime Administrative Committee are authorized and an assessment rate of $0.16 per bushel on assessable limes are established for the fiscal year ending March 31, 1995. Unexpended funds may be carried over as a reserve.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

3. Section 915.232 is revised to read as follows:

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

§ 915.232 Expenses and assessment rate.

Expenses of $99,500 are authorized and an assessment rate of $0.16 per bushel on assessable avocados is established for the fiscal year ending March 31, 1995. Unexpended funds may be carried over as a reserve.

Dated: April 15, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–9591 Filed 4–20–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 955

[Docket No. FV93–955–3FR]

Vidalia Onions Grown in Georgia; Interest Charges on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the administrative rules and regulations established under the Federal marketing order for Vidalia onions grown in Georgia. This rule allows the Vidalia Onion Committee (Committee) to impose interest charges on handler assessments that are paid late. This rule will encourage handlers to pay assessments in a timely manner. This rule is based on a unanimous recommendation of the Committee, which is responsible for local administration of the order.

EFFECTIVE DATE: April 21, 1994.

FOR FURTHER INFORMATION CONTACT: Shoshana Avrishon, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2536–S., P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 720–3610, or FAX (202) 720–5698; or William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; (813) 299–4770, or FAX (813) 299–5169.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 955 (7 CFR part 955) regulating the handling of Vidalia onions grown in Georgia. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The U.S. Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866. This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this 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 145 handlers of Vidalia onions that are subject to regulation under the marketing order and approximately 250 producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of the Vidalia onion handlers and producers may be classified as small entities.

This rule adds a new § 955.142 to Subpart—Administrative Rules and Regulations and is based on a unanimous recommendation of the Committee and other available information.

Section 955.42(f), of the marketing order provides authority for the Committee to impose a late payment or an interest charge or both, on any

handlers who fail to pay assessments in a timely manner.

On November 18, 1993, the Committee met to discuss, among other things, the difficulty it has experienced in collecting assessments from some handlers. It reported that during the past season approximately 20 handlers paid assessments late. When this occurred, handlers who paid their assessments on time were placed in an unfair situation compared to those handlers who failed to do so. The delinquent handlers were able to use the money which was due the Committee for other financial obligations and thus eliminate interest charges on money that they might otherwise have had to borrow to pay those other financial obligations. This money could also have been invested to earn interest for the delinquent handlers.

At the meeting, the Committee determined that it was important to encourage all handlers to pay their assessments promptly, thereby eliminating these inequities and avoiding additional and unnecessary collection costs. The Committee recommended the following procedures for delinquent assessments. If a handler does not pay all assessments due 30 days after the date of billing, the unpaid portion of the account would be considered delinquent and subject to interest charges at the rate of one percent per month. Handlers would be charged interest charges on unpaid assessments and interest charges on any unpaid interest charges until the late obligation is paid in full. The Committee assesses handlers on a monthly basis.

The Committee believes that the interest charge is high enough to discourage handlers from delaying assessment payments. Thus, this rule is expected to encourage all handlers to pay their assessments in a timely manner, and facilitate the collection of funds to pay expenses necessary for the maintenance and functioning of the Committee.

Notice of this action was published in the **Federal Register** on March 17, 1994, (59 FR 12554). The proposed rule provided a 15-day comment period which ended April 1, 1994. No comments were received.

Based on the above, the Administrator of the AMS has determined that this rule would not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, including the Committee's unanimous recommendation and other information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this final rule until 30 days after publication in the **Federal Register** because: (1) Assessments are based on the quantity of Vidalia onions handled by each handler during the fiscal period; (2) the most active part of the 1994 crop shipping season is about to begin and the Committee would like authority to impose interest charges if they are warranted; (3) this action does not impose regulatory burdens on handlers for which they need additional time to comply; and (4) the proposed rule provided a 15-day comment period and no comments were received.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR Part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 955.142 is added to read as follows:

§ 955.142 Delinquent assessments.

Each handler shall pay interest of one percent per month on any unpaid assessments levied pursuant to § 955.42 and any accrued unpaid interest beginning 30 days after date of billing, until the delinquent handler's assessment plus applicable interest has been paid in full.

Dated: April 15, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–9588 Filed 4–20–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1210

[FV–93–705FR]

RIN 0581–AB08

Watermelon Research and Promotion Plan; Rules and Regulations; Realignment of Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the boundaries of five of the seven districts established under the Watermelon Research and Promotion Plan (Plan) to apportion membership on the National Watermelon Promotion Board (Board). This action is necessary to reflect shifts in production since the original districts were established. The Plan requires the periodic realignment of the districts based on shifts in production to ensure equitable representation of producers and handlers on the Board.

EFFECTIVE DATE: April 21, 1994.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2535–S, Washington, DC 20090–6456; telephone (202) 720–9916.

SUPPLEMENTARY INFORMATION: This final rule is issued under the Watermelon Research and Promotion Plan (Plan) (7 CFR part 1210). The Plan is authorized under the Watermelon Research and Promotion Act (7 U.S.C. 4901–4916), hereinafter referred to as the Act.

This rule has been determined to be non-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 1650 of the Act, a person subject to the Plan may file a petition with the Secretary stating that the Plan or any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with law and requesting a modification of the Plan or an exemption from the Plan. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act

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

There are approximately 750 watermelon handlers and 5,000 watermelon producers in the contiguous 48 States of the United States who are subject to the Plan. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000 and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of watermelon handlers and producers may be classified as small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (40 U.S.C. chapter 35), the information collection requirements contained in the Plan have previously been approved by the Office of Management and Budget (OMB) and assigned OMB number 0581–0093, except for the Board nominee background statement form which is assigned OMB number 0505–0001. This final rule adds no additional reporting burden.

Background

Under the Plan, the National Watermelon Promotion Board (Board) administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the market place and to establish, maintain, and expand markets for domestic watermelons. This program is financed by assessments on all producers, except those persons engaged in the growing of less than five acres of watermelons, and handlers of watermelons. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reportings.

Membership on the Board is determined on the basis of two producers and two handlers for each of seven districts established under the Plan. The districts are required to have approximately equal annual production volume. The current districts were based on a three-year average production derived from U.S. Department of Agriculture (USDA) Crop Production Annual Summary Reports for 1979, 1980, and 1981.

These districts are:

District 1—South Florida, including all areas south of State Highway 50.

District 2—North Florida, including all areas north of State Highway 50.

District 3—The States of Alabama and Georgia.

District 4—The States of Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

District 5—The States of Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, and Wisconsin.

District 6—The State of Texas.

District 7—The States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

The Plan provides that two years after its effective date (June 8, 1989) and at least every five years thereafter, the Board should review the districts to determine whether realignment of districts is necessary.

When making such reviews, the Plan specifies that the Board should consider such factors as the most recent three-year USDA production reports or Board assessment reports, if USDA production reports are unavailable, shifts and trends in quantities of watermelons produced, and any other relevant factors.

The Plan further specifies that, as a result of such reviews, the Board may realign the districts subject to the approval of the Secretary. Any such alignment should be recommended by the Board at least six months prior to the date of the call for nominations and should become effective at least 30 days prior to such date.

In accordance with the Plan, the Board appointed a subcommittee to review production and assessment collections in the current districts. During the review, the subcommittee used USDA and State production and marketing reports, as well as data derived from Board assessment reports and field notes. The subcommittee focused on information collected between 1990 and 1992.

After reviewing the available information, the subcommittee recommended that the boundaries of Districts 3 through 7 be changed and that Districts 1 and 2 remain unchanged. In order for each district to represent approximately 3.3 million hundredweights of annual watermelon production, the subcommittee recommended the following: move Mississippi from District 5 to District 3; move Indiana, Kentucky, and Tennessee from District 5 to District 4; move Wyoming, Montana, Idaho, Utah, Nevada, Washington, Oregon, and California north of San Luis Obispo, Kern, and San Bernadino counties from District 7 to District 5; move Arkansas and Louisiana from District 5 to District 6; and move New Mexico from District 5 to District 7.

The subcommittee's recommendation was approved by the Board's executive committee, and the full Board voted by mail ballot. In the mail ballot, 19 members voted "yes," 4 members voted "no," and 5 members did not return a ballot.

The Board submitted its recommendation to the Department. Subsequently, the Department published a proposed rule with request for comments on changing the boundaries of five of the seven districts established under the Plan. The proposed rule was published in the January 28, 1994 issue of the **Federal Register** (59 FR 4013). The comment period ended on February 28, 1994. No comments were received on this proposed rule.

Therefore, this final rule realigns the districts as follows:

District 1—South Florida, including all areas south of State Highway 50.

District 2—North Florida, including all areas north of State Highway 50.

District 3—The States of Alabama, Georgia, and Mississippi.

District 4—The States of Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

District 5—The States of California—north of San Luis Obispo, Kern, and San Bernardino counties, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

District 6—The States of Arkansas, Louisiana, and Texas.

District 7—The State of Arizona, the remainder of the State of California, including San Luis Obispo, Kern, and San Bernardino counties, and the State of New Mexico.

In addition, this rule makes a conforming change to § 1210.401. Section 1210.401 currently states that the districts are defined in § 1210.320 of the Plan. Since this rule defines new district boundaries in a new § 1210.501,

this rule also changes § 1210.401(b) to reflect this new section number.

This final rule will realign the districts for the terms of office that begin on January 1, 1995. This rule affects the eligibility of three current Board members and will necessitate Board member nomination meetings for the realigned Districts 4, 5, 6, and 7 in spring 1994. In the normal cycle of nominating, approximately one-third of the Board members' terms expire each year. Spring 1994 nomination meetings were already planned for Districts 2 and 3.

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

After consideration of all relevant material presented, it is found that this rule, as set forth herein, tends to effectuate the declared policy of the Act.

Pursuant to the provisions of 5 U.S.C., it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because it is necessary that the new district boundaries be used for the nomination meetings for members for the term of office beginning on January 1, 1995.

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, part 1210, chapter XI of title 7 is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

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

Authority: 7 U.S.C. 4901–4916.

2. In § 1210.401(b), the words "1210.320" in the last sentence are revised to read "1210.501".

3. Section 1210.501 is added to read as follows:

§ 1210.501 Realignment of districts.

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

District 1—South Florida, including all areas south of State Highway 50.

District 2—North Florida, including all areas north of State Highway 50.

District 3—The States of Alabama, Georgia, and Mississippi.

District 4—The States of Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

District 5—The States of California—north of San Luis Obispo, Kern, and San Bernardino counties, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

District 6—The States of Arkansas, Louisiana, and Texas.

District 7—The State of Arizona, the remainder of the State of California, including San Luis Obispo, Kern, and San Bernardino counties, and the State of New Mexico.

Dated: April 15, 1994.

Lon Hatamiya,

Administrator.

[FR Doc. 94–9590 Filed 4–20–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 985

[Docket No. FV94–985–1IFR]

Spearmint Oil Produced in the Far West; Expenses and Assessment Rate for the 1994–95 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate for the Spearmint Oil Administrative Committee (Committee) under M.O. 985 for the 1994–95 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning June 1, 1994, through May 31, 1995. Comments received by May 23, 1994 will be considered prior to issuance of a 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, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–5127; or Robert Curry, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, Room 369, Portland, Oregon 97204, telephone: (503) 326–2724.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 985 (7 CFR part 985) regulating the handling of spearmint oil produced in the Far West. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, spearmint oil produced in the Far West is subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable oil produced during the 1994–95 fiscal year, beginning June 1, 1994, through May 31, 1995. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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 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 8 handlers of spearmint oil regulated under the marketing order each season and approximately 260 producers of spearmint oil in the Far West. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable oil handled from the beginning of such year. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of spearmint oil. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committee's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by expected shipments of oil. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The Committee met on February 23, 1994, and unanimously recommended a total expense amount of $228,705, which is $30,705 more in expenses than in the 1993–94 fiscal year.

The Committee also unanimously recommended an assessment rate of $0.09 per pound for the 1994–95 fiscal year, which is a $0.01 increase in the assessment rate from the previous fiscal year. The assessment rate, when applied to anticipated shipments of 1,727,388 pounds, would yield $155,464.92 in assessment income. This along with $8,000 in interest income and $65,240.08 from the Committee's authorized reserves will be adequate to cover estimated expenses.

Major expense categories for the 1994–95 fiscal year include $94,200 for salaries, $30,000 for market development, and $20,000 for travel. Funds in the reserve at the end of the fiscal year, estimated at $169,166.84, will be within the maximum permitted by the order of one fiscal year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that 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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the fiscal year for the Committee begins June 1, 1994, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable oil handled during the fiscal year; (3) handlers are aware of this action which was recommended by the Committee at a public meeting and which is similar to budgets issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

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

2. A new § 985.314 is added to read as follows:

§ 985.314 Expenses and assessment rate.

Expenses of $228,705 by the Spearmint Oil Administrative Committee are authorized and an assessment rate of $0.09 per pound on assessable oil is established for the fiscal year ending May 31, 1995. Unexpended funds may be carried over as a reserve.

Dated: April 15, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–9587 Filed 4–20–94; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 92–044–3]

Brucellosis; Interstate Movement of Swine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the swine brucellosis regulations by standardizing and simplifying the testing requirements for States seeking validation as swine brucellosis-free, and by extending to 2 years the period during which breeding swine in States must be tested to qualify States for brucellosis-free status. We are also amending the testing requirements for validation and maintenance of brucellosis-free herd status and are restricting the interstate movement of feral swine because of swine brucellosis. These actions are necessary to achieve the goal of swine brucellosis eradication in the United States.

EFFECTIVE DATE: May 23, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Annelli, Epidemiologist, Swine Health Staff, Veterinary Services, APHIS, USDA, room 204, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, 301–436–7781.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*. Brucellosis in swine is characterized by abortion, infertility, orchitis, posterior paralysis, and lameness. The brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) prescribe, among other things, conditions for the interstate movement of swine. The purpose of the regulations is to control, and ultimately to eradicate, brucellosis in the United States.

On July 23, 1993, we published in the **Federal Register** (58 FR 39458–39462, Docket No. 92–044–1) a proposed rule to amend the regulations by standardizing and simplifying the options regarding testing that are available to States seeking validation as swine brucellosis-free, and by extending to 2 years the period during which validated brucellosis-free herds must be tested to maintain brucellosis-free status. We also proposed to restrict the interstate movement of feral swine. On September 8, 1993, we published in the **Federal Register** (58 FR 47222, Docket No. 92–044–2) an editorial correction to the Summary and Background sections of the July 23 proposed rule.

We solicited comments concerning our proposal for a 60-day comment period ending September 21, 1993. We received 3 comments by that date. They were from State and Federal governments and a professional association. All responses were in favor of our proposal. Two commenters, however, suggested modifications or clarifications. Those suggestions are discussed below.

One commenter recommended that we require positive, permanent identification of all domestic and feral swine for traceback purposes. That action is outside the scope of this rulemaking and, therefore, is not discussed in this document. Any changes made as a result of that comment would be proposed as part of a separate rulemaking proceeding.

Another commenter expressed confusion over the proposed rules regarding maintenance of validated brucellosis-free status for herds. This commenter supported the flexibility of the testing schedules we proposed, but was uncertain about the status of herds for which all testing had not been completed at the end of the 12-month validation period. In addition, the commenter recommended that the Administrator approve alternative testing schedules that, in exceptional circumstances, might extend to 420 days.

We agree with the commenter that the testing schedule, as proposed, is unclear. It was our intention to give producers a measure of flexibility within the 365-day testing cycle for the incremental complete herd test (CHT), so we proposed to allow the 25-percent incremental tests to be conducted every 80–105 days, and the 10-percent incremental tests every 25–35 days. However, if a producer were to conduct each increment of the 25-percent incremental CHT on the 105th day, which the proposed regulations would have allowed, the testing would not be completed until 420 days had passed, thus leaving a 2-month gap between the end of the 365-day validation period and the completion of the incremental testing required to maintain validation. While the commenter agreed that there should be some measure of flexibility in the testing cycle, she was concerned about whether a herd would retain its validated brucellosis-free status during that time.

In order to address the commenter's concerns and clarify the intent of the regulations, we have rewritten portions of paragraph (b) of the definition of *validated brucellosis-free herd*. The new text of paragraph (b)(1), "Validation," makes it clear that the 25-percent incremental testing is to be conducted at 90-day intervals, thus ensuring that the testing is completed within the 365-day testing cycle. To allow some flexibility, though, we have included a provision under which the Administrator could give a producer an additional 15 days in which to conduct an incremental test when unforeseen circumstances warrant an extension. Even if an extension were granted, however, the next test would be due on the day specified on the original schedule, not 90 days after the test for which an extension was granted was actually conducted. This way, the 25-percent incremental testing would be kept on schedule and completed within the 365-day testing cycle (unless an extension were granted for the final incremental test, which would mean the testing would be completed within 375 days).

The new text of paragraph (b)(2), which concerns maintenance of validated-free status, provides that, when unforeseen circumstances warrant such an extension, the Administrator may approve an alternative testing schedule under which an incremental CHT would be completed within 420 days. A herd tested under an alternative testing schedule would retain its validation until the testing has been completed. This provides the flexibility sought by the commenter by allowing a producer to maintain validated brucellosis-free status in situations where circumstances make it impossible to complete the required herd testing within the specified 365-day testing cycle.

In addition to the changes discussed above, we are making one nonsubstantive editorial change to the rule.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

The changes in this rule should result in direct benefits for producers through testing requirements either being relaxed or removed entirely, and in indirect benefits through more standardized testing procedures. Requiring fewer tests, which cost an estimated $5 per head, will not only save herd owners money, but will also be less disruptive to normal herd operations. Similarly, savings will be realized by the removal of the requirement for routine herd testing in validated brucellosis-free States.

The more stringent standard for validated brucellosis-free State status will disqualify any State with more than one confirmed brucellosis-infected herd. We expect that this new standard will provide States or producers with an incentive to depopulate the relatively few brucellosis-infected herds of domestic swine that, although sources of disease perpetuation and spread, are currently tolerated in some States. We expect, therefore, that this provision will expedite the eradication of swine brucellosis in domestic herds in all States in the United States. Once eradication has been achieved, as has been done in 40 States, fewer tests must be conducted. Producers will immediately benefit, both operationally and economically, from the reduced testing requirements.

More than 90 percent of all domestic swine producers are classified as small businesses. Based on the 1991 marketing year figures, sales of fewer than 4,000 head place a producer in the "small business" category (gross receipts below $500,000). Of the

238,819 swine producers in the United States identified in the most recent Census of Agriculture, fewer than 24,000, or 10 percent, sell more than 1,000 head per year; precise figures above 1,000 are not available. We expect that large and small producers alike will benefit to a limited extent from relaxed testing requirements in States applying for validation and in States already validated as swine brucellosis-free. Producers in other States will be unaffected by these changes to the regulations.

Feral swine have a capacity for harboring and transmitting swine brucellosis to domestic herds. Feral swine moved interstate (not intended for immediate slaughter) are presumably sold to hunting preserves or at livestock auctions. However, State records indicate minimal interstate movement of feral swine. Therefore, it is likely that few small entities will be affected by the provisions of this final rule regarding the interstate movement of feral swine.

We know of no other small entities that might be affected by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule will be submitted for approval to the Office of Management and Budget.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 78.1, the term *Herd blood test* is amended by removing and reserving paragraph (b); the terms *Validated brucellosis-free herd* and *Validated brucellosis-free State* are revised; and the terms *Complete herd test (CHT), Confirmatory test, Feral swine, Market swine test (MST) reactor, Monitored-negative feral swine population,* and *Swine brucellosis* are added, in alphabetical order, as follows:

§ 78.1 Definitions.

* * * * *

Complete herd test (CHT). An official swine brucellosis test of all swine on a premises that are 6 months of age or older and maintained for breeding purposes.

Confirmatory test. A follow-up test to verify any official test results. Confirmatory tests include the standard tube test, the Rivanol test, the complement fixation test (CF), the particle concentration fluorescence immunoassay (PCFIA), the semen plasma test, and the standard plate test.

* * * * *

Feral swine. Free-roaming swine. Formerly free-roaming swine could qualify for reclassification as domestic swine upon testing negative to an official swine brucellosis test after a period of at least 60 days' confinement in isolation from other feral swine.

* * * * *

Market swine test (MST) reactor. Market swine test swine with a positive reaction to a swine brucellosis confirmatory test or other official test, if no confirmatory test is performed.

* * * * *

Monitored-negative feral swine population. Feral swine indicating no evidence of infection (indicators would include positive blood tests or clinical signs, such as abortion) and originating from a specified, geographically isolated area (a forest area, hunting preserve, or swamp, for example) may be classified by the designated epidemiologist as a monitored-negative feral swine population.

* * * * *

Swine brucellosis. The communicable disease of swine caused by *Brucella suis* (*B. suis*) biovar 1 or 3.

* * * * *

Validated brucellosis-free herd. (a) A swine herd not known to be infected with swine brucellosis, located in a validated brucellosis-free State; or

(b) a swine herd in a State that has not been validated as brucellosis-free, provided the herd meets the conditions for validation, as follows:

(1) *Validation.* A swine herd may be validated as brucellosis-free if it has been found brucellosis negative after either a complete-herd test (CHT) or an incremental CHT. The incremental CHT may be conducted by testing all breeding swine 6 months of age or older with negative results within 365 days, either in four 25-percent increments, with those tests being conducted on the 90th, 180th, 270th, and 360th days of the testing cycle, or in 10-percent increments every 25–35 days until 100 percent of those swine have been tested. In cases where unforseen circumstances warrant such action, the Administrator may approve an extension of up to 15 days of the date on which a test under the 25-percent incremental herd test is to be conducted, thus allowing a test to be conducted no later than the 105th, 195th, 285th, or 375th day of the testing cycle. No swine may be tested twice during the testing cycle to comply with either the 25 percent requirement or the 10 percent requirement. No further testing is required once 100 percent of the breeding swine have been tested. After all breeding swine have tested brucellosis negative, a herd may be validated as brucellosis-free. Unless the Administrator has approved an alternative testing schedule, which might extend the testing cycle, a herd retains validated brucellosis-free status for a maximum of 365 days.

(2) *Maintaining validation.* Validation may be continuously maintained if a complete herd test (CHT) is performed once every 365 days, with negative results, or an incremental CHT is performed. The incremental CHT may be conducted by testing all breeding swine 6 months of age or older, with negative results, within 365 days in either four 25-percent increments, with those tests being conducted on the 90th, 180th, 270th, and 360th days of the testing cycle, or in 10-percent increments every 25–35 days until 100 percent of those swine have been tested. In cases where unforeseen circumstances warrant such action, the Administrator may approve an alternative testing schedule under which the 25 percent or 10 percent incremental CHT would be completed, with negative results, within 420 days, during which time the herd's validated brucellosis-free status would be continued. No swine may be tested

twice during the testing cycle to comply with these requirements. No further testing is required once 100 percent of the breeding swine have been tested.

Validated brucellosis-free State. A State may apply for validated-free status when:

(a) Any herd found to have swine brucellosis during the 2-year qualification period preceding the application has been depopulated. More than one finding of a swine brucellosis-infected herd during the qualification period disqualifies the State from validation as brucellosis-free; and

(b) During the 2-year qualification period, the State has completed surveillance, annually, as follows:

(1) *Complete herd testing.* Subjecting all swine in the State that are 6 months of age or older and maintained for breeding purposes to an official swine brucellosis test; or

(2) *Market swine testing.* Subjecting 20 percent of the State's swine 6 months of age or older and maintained for breeding purposes to an official swine brucellosis test, and demonstrating successful traceback of at least 80 percent of market swine test (MST) reactors to the herd of origin. Blood samples may be collected from MST swine if the swine can be identified to their herd of origin, in accordance with § 71.19(b) of this subchapter. All MST reactor herds are subject to a CHT within 30 days of the MST laboratory report date, as determined by a designated epidemiologist; or

(3) *Statistical analysis.* Demonstrating, by a statistical analysis of all official swine brucellosis test results (including herd validation, MST, change-of-ownership, diagnostic) during the 2-year qualification period, a surveillance level equivalent or superior to CHT and MST testing programs discussed in this paragraph.

(c) To maintain validation, a State must annually survey at least 5 percent of its breeding swine, and demonstrate traceback to herd of origin of at least 80 percent of all MST reactors. A State must demonstrate its continuing ability to meet the criteria set forth in paragraph (c) of this definition within 36–40 months of receiving validated brucellosis-free State status to retain that status.

* * * * *

§ 78.30 [Amended]

3. In § 78.30, paragraph (a) is amended by removing the words "and sows" after "brucellosis exposed swine" and adding, in their place, the words "feral swine, sows,".

4. In § 78.30, a new paragraph (c) is added to read as follows:

§ 78.30 General restrictions.

* * * * *

(c) (1) Feral swine may be moved interstate directly to slaughter if they do not come into physical contact with any domestic swine or other livestock.

(2) Feral swine from monitored-negative populations may be moved interstate other than directly to slaughter if accompanied by a permit issued by the APHIS representative or the State animal health official in the State of origin.

(3) Feral swine found negative to an official test within the 30 days prior to the interstate movement may be moved interstate other than directly to slaughter if accompanied by a permit issued by the APHIS representative or the State animal health official in the State of origin.

Done in Washington, DC, this 15th day of April 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–9593 Filed 4–20–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–115–AD; Amendment 39–8875; AD 94–08–04]

Airworthiness Directives; McDonnell Douglas Model DC–9 and Model DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, and C–9 (military) airplanes, that currently requires inspections to detect cracking in the skin and doublers around the upper anticollision light cutout, and repair, if necessary. This amendment expands the applicability to include additional Model DC–9–80 series airplanes and Model MD–88 airplanes, and requires the performance of stress coining procedures on the plate nut clearance holes or installation of shims and an external doubler. This amendment is prompted by a report that stress coining procedures were not performed on the plate nut clearance holes of the upper anticollision light doublers during production of certain airplanes. The actions specified by this AD are intended to prevent crack growth in the doublers, which could result in damage to the adjacent structure, and subsequent loss of cabin structural integrity.

DATES: Effective May 23, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 23, 1994.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Department L51, M.C. 2–98. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Hempe, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5224; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding all or portions of two existing AD's was published in the Federal Register on October 7, 1993 (58 FR 52240).

That action proposed to supersede AD 85–19–03 R2, Amendment 39–5844 (53 FR 3738, February 9, 1988), which is applicable to Model DC–9 and Model DC–9–80 series airplanes, and C–9 (military) airplanes, having fuselage numbers 1 through 1371. That AD requires repetitive inspections, at intervals of 3,500 landings, to detect cracking in the skin and doublers around the upper anticollision light cutout, and repair, if necessary. That AD also provides for the performance of stress coining procedures on the plate nut clearance holes in the upper anticollision light cutout as optional terminating action for the repetitive inspection requirement. The notice proposed to supersede this AD to expand its applicability to include affected airplanes through fuselage number 2042, and to increase the repetitive inspection interval to 4,500 landings.