pound exemption level for importers is the level determined to be equivalent to 10 acres of watermelons for domestic producers. In addition, the Act provides that the Board has the authority to establish rules for producers to certify whether they are exempt from the assessments. In order to make these changes, this rule amends sections 1210.341, 1210.342, 1210.518, and 1210.521.

The Act also increases applicability of the law from the 48 contiguous States to the 50 States and the District of Columbia. This amendment would expand the Plan to cover producers, handlers, and importers in Hawaii, Alaska, and the District of Columbia. In order to make these changes, this rule amends section 1210.305 and would add a new section 1210.315.

Section 1647(f) of the Act permits changes in the assessment rate through notice and comment rulemaking. No change to the Plan is necessary to implement this amendment to the Act because section 1210.341 of the Plan states that assessment rates shall be fixed by the Secretary in accordance with section 1647(f) of the Act.

The Act provides that a producer is eligible to serve on the Board as a representative of handlers (1) if a producer purchases watermelons from other producers in a combined total volume that is equal to 25 percent or more of the producer's own production or (2) if the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producer's production is more than 50 percent of the producer's own production. This provision facilitates the eligibility of producers and handlers to serve on the Board as representatives of their specific group. In order to make these changes, this rule amends sections 1210.321, 1210.363, 1210.368, and 1210.402.

The Act also provides that all future promulgation and amendment referenda do not have to be conducted at Extension Service county offices. This procedure proved to be expensive and difficult to administer. The Act now allows referenda to be conducted by mail ballot which reduces the costs involved in conducting referenda and facilitates a more timely tabulation of the results. In order to make this change, this rule amends section 1210.363.

In addition, the Act changes the criteria for determining the outcome of referenda. The Act previously provided that the Plan should not be effective unless approved by not less than twothirds of the producers and handlers voting in the referendum, or producers and handlers of not less than two-thirds

of the watermelons produced and handled during the representative period by producers and handlers voting in the referendum, and by not less than a majority of the producers and a majority of the handlers voting in the referendum. The Act now specifies that the determination of the results of a referendum should be on the basis of a simple majority of the producers, handlers, and importers voting in the referendum. In order to make this change, this rule amends section 1210.363.

Furthermore, section 1210.252 will be revised to correct a wording error made during the promulgation of the Plan and section 1210.322 will be revised to delete obsolete language.

In addition, section 1210.325 will be changed to reflect a change in the number of Board members that constitute a majority. This revision reflects the addition of importer members to the Board.

Section 1210.505 will be amended to reflect the fact that the Department issues user fee bills to the Board monthly rather than quarterly.

In addition, miscellaneous conforming changes will be made to sections 1210.251, 1210.302, 1210.328, 1210.340, and 1210.362.

Minor changes are made in this final rule for the purpose of clarity.

After consideration of all relevant material presented, it is found that this regulation, as set forth herein, tends 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 action until 30 days after publication in the Federal Register because: (1) This rule amends the Plan and the Rules and Regulations issued thereunder, in accordance with the provisions of the Act as amended by the Watermelon Research and Promotion Improvement Act of 1993; (2) watermelon producers, handlers, and importers voted in November 1994 to implement two of the major changes; and (3) no useful purpose will be served in delaying the effective date until 30 days after publication of this final rule. Therefore, this final rule will be effective on the date of publication in the Federal Register.

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.

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or **To Be Exempted From Plans**

§1210.251 [Amended]

2. In Section 1210.251, paragraph (a) is amended by removing ";" and adding in its place ", as amended;".

§1210.252 [Amended]

3. In Section 1210.252, paragraph (b)(3) is amended by removing the word "order" and adding in its place "Plan".

Subpart—Watermelon Research and **Promotion Plan**

§1210.302 [Amended]

4. Section 1210.302 is amended by adding ", as amended" at the end of the sentence.

5. Section 1210.305 is revised to read as follows:

§1210.305 Watermelon.

"Watermelon" means all varieties of the Family Curcubitaceae; Genus and Species; Citrullus Lanatus, popularly referred to as watermelon grown by producers in the United States or imported into the United States.

§1210.306 [Amended]

6. Section 1210.306 is amended by removing the word "five" and adding in its place "10"

7. A new §1210.314 is added to read as follows:

§1210.314 Importer.

"Importer" means any person who imports watermelons into the United States as a principal or as an agent, broker, or consignee for any person who produces watermelons outside of the United States for sale in the United States.

8. A new section 1210.315 is added to read as follows:

§1210.315 United States.

"United States" means each of the several States and the District of Columbia.

9. Section 1210.320 is amended by revising paragraph (a) and adding new paragraphs (d), (e), and (f) to read as follows:

§1210.320 Establishment and membership.

(a) There is hereby established a National Watermelon Promotion Board, hereinafter called the "Board." The