watermelons imported into the United States for consumption as human food. No more than one assessment on a producer, handler, or importer shall be made on any lot of watermelons. The handler shall be assessed an equal amount on a per unit basis as the producer. If a person performs both producing and handling functions on any same lot of watermelons, both assessments shall be paid by such person. In the case of an importer, the assessment shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer at the time of entry of the watermelons into the United States.

(b) Assessment rates shall be fixed by the Secretary in accordance with section 1647(f) of the Act. No assessments shall be levied on watermelons grown by producers of less than 10 acres of watermelons.

* * * * *

(d) Each importer shall be responsible for payment of the assessment to the Board on watermelons imported into the United States through the U.S. Customs Service or in such other manner as may be established by rules and regulations approved by the Secretary.

- (e) Producer-handlers and handlers shall pay assessments to the Board at such time and in such manner as the Board, with the Secretary's approval, directs, pursuant to regulations issued under this part. Such regulations may provide for different handlers or classes of handlers and different handler payment and reporting schedules to recognize differences in marketing practices or procedures used in any State or production area.
- 16. Section 1210.342 is amended by designating the existing text as paragraph (a) and adding new paragraphs (b), (c), and (d) to read as follows:

§ 1210.342 Exemption from assessment.

- (b) Importers of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is equal to the rate of assessment paid by domestic producers.
- (c) The Secretary may adjust the quantity of the weight exemption specified in paragraph (b) of this section on the recommendation of the Board after an opportunity for public notice and comment to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.
- (d) The Board shall have the authority to establish rules, with the approval of

the Secretary, for certifying whether a person meets the definition of a producer under section 1210.306.

§1210.343 [Removed and Reserved]

- 17. Section 1210.343 is removed and reserved.
- 18. Section 1210.350 is amended by redesignating paragraphs (a) through (d) as (a) (1) through (4); designating the introductory paragraph as paragraph (a) introductory text; and adding new paragraphs (b) and (c) to read as follows:

§1210.350 Reports.

* * * * * *

- (b) Each importer of watermelons shall maintain a separate record that includes a record of:
- (1) the total quantity of watermelons imported into the United States that are included under the terms of this Plan;
- (2) the total quantity of watermelons that are exempt from the Plan; and
- (3) such other information as may be prescribed by the Board.
- (c) Each importer shall report to the Board at such times and in such manner as it may prescribe such information as may be necessary for the Board to perform its duties under this part.

§1210.351 [Amended]

19. Section 1210.351 is amended by removing the word "handler" and adding in its place "handler and importer" and removing the word "two" and adding in its place "2".

§1210.352 [Amended]

20. Section 1210.352 is amended by removing in paragraph (a)(1) the word "handlers" and adding in its place "handlers or importers".

§1210.362 [Amended]

- 21. Section 1210.362 is amended by removing the word "collected" and adding in its place "received"; and removing the word "plan" and adding in its place "Plan".
- 22. Section 1210.363 is amended by revising paragraph (b) to read as follows:

§1210.363 Suspension or termination.

* * * * *

(b) The Secretary may conduct a referendum at any time and shall hold a referendum on request of the Board or at least 10 percent of the combined total of the watermelon producers, handlers, and importers to determine if watermelon producers, handlers, and importers favor termination or suspension of this Plan. The Secretary shall suspend or terminate this Plan at the end of the marketing year whenever the Secretary determines that the suspension or termination is favored by a majority of the watermelon producers,

handlers, and importers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production, handling, or importing of watermelons and who produced, handled, or imported more than 50 percent of the combined total of the volume of watermelons produced, handled, or imported by those producers, handlers, and importers voting in the referendum. For purposes of this section, the vote of a person who both produces and handles watermelons will be counted as a handler vote if the producer purchased watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or the combined total volume of watermelon 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. Provided, That the vote of a person who both imports and handles watermelons will be counted as an importer vote if that person imports 50 percent or more of the combined total volume of watermelons handled and imported by that person. Any such referendum shall be conducted by mail ballot.

§1210.364 [Amended]

23. Section 1210.364 is amended by removing in paragraph (d) the phrase "and handlers" and adding in its place ", handlers and importers".

24. The subpart heading "Subpart— Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board" is revised; and a new undesignated center heading is added to read as follows:

Subpart—Procedures for Nominating Members to the National Watermelon Promotion Board

Producer and Handler Members

25. In Section 1210.401, paragraph (b) is revised to read as follows:

§1210.401 District conventions.

* * * * *

(b) District conventions are to be held to nominate producers and handlers as candidates for membership on the National Watermelon Promotion Board. Each district, as defined in § 1210.501, is entitled to two producer and two handler members on the Board.

26. Section 1210.402 is amended by revising paragraph (a); removing in paragraph (b) the phrase "or first handling" and adding in its place ", first handling or importing"; and removing