

# Rules and Regulations

Federal Register

Vol. 71, No. 212

Thursday, November 2, 2006

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1210

[FV-05-704-FR]

#### Watermelon Research and Promotion Plan; Redistricting

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim final rule that reapportioned the producer and handler membership on the National Watermelon Promotion Board (Board). The final rule continues in effect the realignment of all seven districts under the Watermelon Research and Promotion Plan (Plan) based on three-year United States production records for watermelons and the assessments paid in each district. The change was proposed by the Board, which administers the nationally coordinated program, in accordance to the provisions of the Plan which require a review of the districts' alignment at least every five years.

**DATES:** Effective December 4, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, FVP, AMS, USDA, Room 0635-S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250-0244; telephone (202) 720-9915 or (888) 720-9917 (toll free); fax: (202) 205-2800; or e-mail [jeanette.palmer@usda.gov](mailto:jeanette.palmer@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Watermelon Research and Promotion Plan [7 CFR part 1210]. The Plan is authorized under the Watermelon Research and Promotion Act (Act) 7 U.S.C. 4901-4916].

#### Executive Orders 12886

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### Executive Order 12988

In addition, this rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act allows producers, handlers, and importers to file a written petition with the Department of Agriculture (Department) if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not established in accordance with the law. 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 to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

#### Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service has considered the economic impact of this action on the small businesses and has certified that this rule will not have a significant economic impact on a substantial number of small entities. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than \$6.5 million. Under these definitions, the majority of the producers, handlers, and importers that would be affected by this rule would be considered small entities. Producers of less than 10 acres of watermelons are exempt from this program. Importers of less than 150,000

pounds of watermelons per year are also exempt.

According to the Board, there are approximately 1,301 producers, 442 handlers, and 346 importers who are eligible to serve on the Board.

The Plan requires producers to be nominated by producers, handlers to be nominated by handlers, and importers to be nominated by importers. This will not change. Because some current members are in states or counties which will be moved to other districts under this rule, one handler vacancy in the new District 4, one producer member vacancy in the new District 5, and one handler member vacancy in the new District 2 is created with this rule change. Nomination meetings will be held in the new districts to fill these vacancies.

The overall impact is favorable because the new district boundaries provide more equitable representation for the producers and handlers who pay assessments in the various districts. The current importer membership will not change.

The Board considered several alignments of the districts in an effort to provide balanced representation for each district. The Board selected the alignment described in this rule as it provides proportional representation on the Board of producers, handlers, and importers.

This rule does not impose additional recordkeeping requirements on first handlers, producers, or importers of watermelons because the number of nominees would remain unchanged.

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

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Plan have been approved previously under OMB control number 0581-0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

#### Background

Under the Plan, the Board administers a nationally coordinated program of research, development, advertising, and

promotion designed to strengthen the position of watermelons in the market place and to establish, maintain, and expand markets for watermelons. This program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. 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 reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through the U.S. Customs Service and Border Protection. This action will not have any impact on the assessment rates paid by producers, handlers, and importers.

Membership on the Board consists of two producers and two handlers for each of the seven districts established by the Plan, at least one importer, and one public member. The Board currently has 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

The seven current districts were established in 2001. They are:

*District 1*—The Florida counties of Brevard, Broward, Collier, Dade, Glades, Hardee, Hendry, Highlands, Indian River, Lee, Martin, Monroe, Okeechobee, Osceola, Palm Beach, Polk, and St. Lucie.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Charlotte, Citrus, Clay, Columbia, Desoto, Dixie, Duval, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Hernando, Hillsborough, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Manatee, Marion, Nassau, Okaloosa, Orange, Pasco, Pinellas, Putnam, Santa Rosa, Sarasota, Seminole, St. Johns, Sumter, Suwannee, Taylor, Union, Volusia, Wakulla, Walton, and Washington.

*District 3*—Alabama, Arkansas, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

*District 4*—Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, D.C., West Virginia, and Wisconsin.

*District 5*—Alaska, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming and the

California counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Toulumne, Venture, Yolo, and Yuba.

*District 6*—Texas.

*District 7*—Arizona, New Mexico, and the California counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

The six importer membership positions on the Board are proportionate to the percentage of assessments paid by the importers. Pursuant to section 1210.320(c) of the Plan, the Board shall review the seven districts to determine whether realignment of the districts is necessary, every five years. When making a review, the Plan specifies that the Board should consider factors such as the most recent three years of 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. Any realignment 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 this date.

Pursuant to section 1210.320 (e), the Secretary shall review importer representation every five years. According to the Plan, the Secretary shall review a three-year average of watermelon import assessments and adjust, to the extent practicable, the number of importers on the Board.

The Board appointed a subcommittee to begin reviewing the U.S. districts and to determine whether realignment was necessary based on production and assessment collections in the current districts. During the review, as prescribed by the Plan, the subcommittee reviewed USDA's Annual Crop Summary reports for 2002 through 2004, which provide figures for the top 17 watermelon producing states, and the Board's assessment collection records for 2002 through 2004. Both sets of data showed similar trends in production among the various states. However, the Board used the assessment reports because USDA's Annual Crop Summary reports were available for only 17 of the 34 states in which watermelons are produced.

The subcommittee recommended to the Board that the boundaries of all seven districts be changed in order for there to be an equal amount of assessments paid by producers and handlers in the districts.

The subcommittee also provided information that the average annual percentage of assessments paid by importers continued to represent 20 percent of the Board's assessment income during 2002 through 2004. Because there was no change in the assessments on imports, it is not necessary to change the number of importer representatives on the Board. Therefore, the number of importer Board members remains at six.

Subsequently, the realignment was approved by the Board at its February 22, 2005, meeting. Under the realignment, each district will represent, on average, 14 percent of total U.S. production. The composition of the Board will remain at a total of 35 members: 14 producers, 14 handlers, 6 importers, and 1 public member.

Therefore, this rule realigns the districts as follows:

*District 1*—The Florida counties of Brevard, Broward, Charlotte, Citrus, Collier, Dade, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Marion, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia.

*District 2*—The Florida counties of Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, Washington, and the Georgia counties Early, Baker, Miller, Mitchell, Colquitt, Thomas, Grady, Decatur, Seminole, and the states of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, Tennessee, and Virginia.

*District 3*—The Georgia counties not included in District two and the state of South Carolina.

*District 4*—The States of North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Kentucky, West Virginia, Maryland, New Hampshire, Maine, New Jersey, New York, Pennsylvania, Massachusetts, Rhode Island, Delaware, Vermont, Wisconsin, Connecticut, and Washington, DC.

*District 5*—The States of Alaska, Hawaii, Nevada, Oregon, and

Washington and all of the counties in the state of California except for those California counties included in District Seven.

**District 6**—The counties in the state of Texas, except for those counties in Texas included in District Seven.

**District 7**—The counties in the state of Texas; Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childness, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, the states of New Mexico, Arizona, Utah, Colorado, Idaho, Montana, and Wyoming, and the following counties in California; San Bernardino, Riverside, San Diego, and Imperial.

Under this realignment: (1) Eighteen Florida counties are moved from District 2 to District 1; (2) Alabama, Arkansas, Louisiana, Mississippi, and Tennessee are moved from District 3 to District 2; (3) North Carolina, Virginia and Oklahoma are moved from District 4 to District 2; (4) Georgia counties Early, Baker, Miller, Colquitt, Thomas, Grady, Decatur, and Seminole are moved from District 3 to District 2; (5) Montana, Idaho, Wyoming, Utah and Colorado are moved from District 5 to District 7; (6) Texas counties Dallam, Sherman, Hanaford, Ochiltree, Lipscomb, Hartely, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carlson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Briscoe, Hall, Childness, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Cochran, Hockely, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, and Stonewall, are moved from District 6 to District 7; and (7) California counties Los Angeles and Orange are moved from District 7 to District 5.

Due to the re-alignment of the districts the following vacancies are created: one handler vacancy in District 4, one handler vacancy in District 2, and one producer vacancy in District 5. Current Board members would be affected because their states or counties would be moved to other districts. Nomination meetings will be held as soon as possible in the new districts to fill the vacancies.

An interim final rule that re-aligned the districts under the Plan was published in the **Federal Register** on June 14, 2006. Copies of the rule were made available through the Internet by USDA and the Office of the Federal

Register. That rule provided a 30-day comment period which ended July 15, 2006. Two comments were received by the deadline.

Two unfavorable comments were received. The commenters' state that USDA should not be marketing the agribusiness products at the expense of the taxpayers; however, the Board is industry-funded and, as such, taxpayers' dollars are not expended on this program.

After consideration of all relevant material presented including comments, the Board's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (71 FR 34232) on June 14, 2006, will tend to effectuate the declared policy of the Act.

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

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

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

**Authority:** 7 U.S.C. 4901–4916.

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

■ The interim final rule amending of 7 CFR part 1210, which was published in the June 14, 2006, **Federal Register** at 71 FR 34232 is adopted without change.

Dated: October 27, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6–18517 Filed 11–1–06; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2006–24487; Directorate Identifier 2006–NE–13–AD; Amendment 39–14810; AD 2006–22–13]

**RIN 2120–AA64**

**Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, PW4090–3, and PW4098 Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, PW4090–3, and PW4098 turbofan engines, with certain front turbine hub part numbers installed. This AD requires a onetime visual inspection of the anti-rotation slots in the front turbine hub, for a machining nonconformance, and its replacement if the inspection failed. This AD results from a report of a crack found in an anti-rotation slot of a front turbine hub, during overhaul shop inspection. The anti-rotation slot geometry was not machined in conformance with the design drawing during manufacture. We are issuing this AD to prevent uncontained engine failure, damage to the airplane, and injury to passengers.

**DATES:** This AD becomes effective December 7, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 7, 2006.

**ADDRESSES:** You can get the service information identified in this AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503.

You may examine the AD docket on the Internet at <http://dms.dot.gov> or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Antonio Cancelliere, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7751; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, PW4090–3, and PW4098 turbofan engines, with certain front turbine hub part numbers installed. We published the proposed AD in the **Federal Register** on June 9, 2006 (71 FR 33412). That action proposed to require a onetime visual inspection of the anti-rotation slots in the front turbine hub, for a machining nonconformance, and its replacement if the inspection failed.

#### Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility Docket Office between 9 a.m. and 5 p.m., Monday through Friday,