(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available.

12. Replanting Payment

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss and the acreage to be replanted has sustained a loss in excess of fifty percent (50%) of the plant stand.

(b) The maximum amount of the replanting payment per acre will be 70 cartons multiplied by your price election, and by your insured share.

(c) In lieu of the provisions contained in section 13 (Replanting Payment) of the Basic Provisions (§ 457.8) that permit only one replanting payment each crop year, when spring and fall planting periods are contained in the Special Provisions, you may be eligible for one replanting payment for acreage planted during each planting period within the crop year.

13. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate, acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each type, if applicable by its respective production guarantee and by the factor for the applicable stage;

(2) Multiplying the results of section 13(b)(1) by the respective price election for each type, if applicable;

(3) Totaling the results of section 13(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 13(c)) by the respective price election;

(5) Totaling the results of section 13(b)(4);

(6) Subtracting this result of section 13(b)(5) from the results in section 13(b)(3); and

(7) Multiplying the result of section 13(b)(6) by your share.

(c) The total production to count (in cartons) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us;

(ii) Potential production lost due to uninsured causes;

(iii) Unharvested production of mature green and ripe tomatoes with classification size of 6 × 7 (2 8/32 inch minimum diameter) or larger remaining after harvest is discontinued;

(iv) Potential production on unharvested acreage and potential production on acreage when harvest has not been completed;

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage:

(i) That is marketed, regardless of grade; and

(ii) That is unmarketed and grades eighty-five percent (85%) or better U.S. No. 1 with classification size of 6 × 7 (2 8/32 inch minimum diameter) or larger.

14. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(e);.

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on September 4, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–23455 Filed 9–12–96; 8:45 am]

BILLING CODE 3410–FA–P

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV–96–981–4PR]

Almonds Grown in California; Interest and Late Payment Charges on Past Due Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on implementing interest and late payment charges on past due assessments owed under the almond marketing order. The marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule would allow the Board to implement authority contained in the marketing order to impose late payment and interest charges for past due assessments owed the Board by handlers, and should contribute to the efficient administration of the program.

DATES: Comments must be received by October 15, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456: telephone: (202) 720–1509, Fax # (202) 720–5698; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax # (209) 487–5906. Small businesses may request information on

compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090- 6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 981 (7 CFR Part 981), as amended, regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' This order is 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 proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal 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 request a modification of the order or to be exempted therefrom. A 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 115 handlers and approximately 7,000 producers of almonds in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This proposal invites comments on implementing regulations concerning collection of assessments under the California almond marketing order. This rule would allow the Board to impose interest and late payment charges on past due assessment accounts. Although the vast majority of handlers are timely in remitting their assessments, there are a few who are not. This rule would provide incentive for handlers to remit assessments in a timely manner, with the intent of creating a fair and equitable process among all industry handlers. It would not impose any costs on handlers who pay their assessments on time, and should contribute to the efficient administration of the program. Therefore, the AMS has determined that this action will not have a significant economic effect on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Section 981.81 of the almond marketing order provides authority for the Board to assess handlers of California almonds to fund authorized activities. This section was recently amended to authorize the Board, with the approval of the Secretary, to impose interest and late payment charges on past due assessments.

The Board met on July 24, 1996, and unanimously recommended implementing the order authority regarding interest and late payment charges. Although most handlers remit assessments in a timely manner, historically there have been a few who do not. Those handlers are able to reap the benefits of Board programs at the expense of others. In addition, they are able to utilize funds for their own use that should otherwise be paid to the Board to finance Board programs. In effect, this provides handlers with an interest free loan.

Implementing interest and late payment charges would provide an incentive for handlers to pay assessments on time, which would improve compliance with the order. It would decrease the number of actions taken against handlers failing to pay assessments on time through administrative remedies or the Federal courts. These remedies, currently the only recourse against handlers who fail to pay assessments, can be costly and time consuming and often add to an already overburdened legal system. This rule would remove any economic advantage gained by those handlers who do not pay on time, thus helping to ensure a program that is equitable to all. This is also consistent with standard business practices.

For 1996–97 crop year assessments, the Board recommended interest charges of one and one half percent per month for assessments 30 days or more late. In addition, assessments remaining unpaid for 60 days would be charged a 10 percent late payment charge. For prior crop year assessments past due, the Board recommended an interest rate of one and one half percent per month and a late payment charge of 20 percent, after handlers are provided an initial grace period to come into compliance.

While the Board's recommendation contemplated calculating interest and late payment charges from the original invoice date, the Department has determined that no interest or late payment charges would accrue prior to the effective date of this rule. Interest or late payment charges would only be applicable to assessments accrued and billed after the effective date of this rule.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 981.481 is proposed to be added to read as follows:

§ 981.481 Interest and late payment charges.

(a) Pursuant to § 981.81, the Board shall impose an interest charge on any handler whose assessment payment has not been received in the Board's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 30 days of the invoice

date shown on the handler's statement. The interest charge shall be a rate of one and one half percent per month and shall be applied to the unpaid assessment balance for the number of days all or any part of the unpaid balance is delinquent beyond the 30 day payment period.

(b) In addition to the interest charge specified in paragraph (a) of this section, the Board shall impose a late payment charge on any handler whose payment has not been received in the Board's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 60 days of the invoice date. The late payment charge shall be 10 percent of the unpaid balance.

Dated: September 6, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–23456 Filed 9–12–96; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 96–033–1]

Official Brucellosis Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis regulations to add the rapid automated presumptive test to the list of official tests for determining the brucellosis disease status of test-eligible cattle, bison, and swine. We believe that this proposed action is warranted because the rapid automated presumptive test has been shown to provide an accurate, automated, and cost-effective means of determining the brucellosis status of test eligible cattle, bison, and swine. Adding the rapid automated presumptive test to the list of official tests for brucellosis in cattle, bison, and swine would help to prevent the spread of brucellosis by making available an additional tool for its diagnosis in those animals.

DATES: Consideration will be given only to comments received on or before November 12, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–033–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–033–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. M.J. Gilsdorf, National Brucellosis Epidemiologist, Brucellosis Eradication Staff, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1228, (301) 734–7708; or E-mail: mgilsdorf@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella.* In its principal animal hosts—cattle, bison, and swine—brucellosis is characterized by abortion and impaired fertility. The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the spread of brucellosis.

Official brucellosis tests are used to determine the brucellosis disease status of cattle, bison, and swine. The regulations stipulate that certain cattle, bison, and swine must, among other requirements, test negative to an official brucellosis test prior to interstate movement. Official brucellosis tests are also used to determine eligibility for indemnity payments for animals destroyed because of brucellosis. In § 78.1 of the regulations, the definition of *official test* lists those tests that have been designated as official tests for determining the brucellosis disease status of cattle, bison, and swine.

The Animal and Plant Health Inspection Service (APHIS) has developed a new serologic test for the detection of *Brucella* antibodies, and we are proposing to amend the regulations to add this new presumptive test as an official test. The test, known as the rapid automated presumptive (RAP) test, provides an accurate, automated, and cost-effective means of determining the brucellosis status of test eligible cattle, bison, and swine. The RAP test is as sensitive as the existing buffered acidified plate antigen (BAPA) test currently used for cattle and bison and uses the same basic test criteria as the BAPA test, but the RAP test employs a computer reader and recording device to assess and report test results.

To conduct the RAP test, a laboratory technician places a serum sample drawn from a test eligible animal on a microtiter plate, then measures the amount of light that is transmitted through the microtiter well using a computer reader and visual processor. The technician then mixes test antigen with the serum and once again measures the light transmission through the microtiter well; if *Brucella* antibodies are present, there will be an agglutination reaction between the antibodies and the test antigens, and the agglutination will reduce the amount of light that is transmitted through the test well. The computer reader compares the two light measurements and reports whether the blood sample is positive or negative for *Brucella* antibodies, based on the agglutination reaction. If the percentage of agglutination indicated is measured at less than the established reference level for the test, the results would be interpreted as negative and the animal from which the sample was drawn would be considered to be free from brucellosis and would be classified as such. If the percentage of agglutination is higher, the results would be interpreted as positive and the animal would have to be subjected to another, more specific, official test to determine its brucellosis classification.

The additional official test would be necessary because the RAP test, like the standard card, BAPA, and rapid screening tests already in use as official tests, is a presumptive test. A presumptive test is used as a tool to quickly qualify animals for interstate movement by establishing their freedom from a specific disease. If an animal tests positive to a presumptive test, a more specific official test like the standard tube, standard plate, or complement-fixation test is necessary to confirm the positive result and establish the animal's specific disease classification (i.e., reactor or suspect) by measuring different types of antibodies and varying degrees of agglutination or fixation in a serum sample at different dilutions (titers).

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This proposed rule would amend the brucellosis regulations by adding the RAP test to the list of official tests for determining the brucellosis disease status of test-eligible cattle, bison, and swine. The RAP test has been shown to provide an accurate, automated, and cost-effective means of determining the brucellosis status of test eligible cattle, bison, and swine. We believe that