Department does not believe that a minimum exemption is appropriate. Further, based upon information in another comment received concerning the proposed rule, the committees have revised the detail in the forms to be used to further minimize the burden.

The second commenter, the manager of the California Tree Fruit Agreement, the body which manages the PCC and NAC, supported the proposed rule, stating that destination reports will help in providing information for the committees to make long-term decisions designed to improve the marketing of nectarines and peaches grown in California. This commenter noted, as well, the importance of requiring all handlers to file destination reports. This commenter also discussed requirements for similar information in other programs, the confidentiality of the information submitted, and the need to finalize this action as soon as possible.

The comment went on to state that the NAC and the PCC have revised the destination reports since the proposed rule was issued to make it more simple for handlers to complete. For example, requested information concerning grade and size has been removed, and zip code information would be required only if known by the handler. Reporting ''CA Utility'' quality fruit also would be required. It was suggested that the computer technology that is being used in the industries may also assist handlers in completing the destination report in less time that it would take to complete the report by hand.

The Department has revised its estimate of the time it would take to complete the destination report from one hour to three-quarters of an hour. The revised estimated total annual burden to nectarine and peach handlers is reduced from 1,200 hours to 900 hours.

Accordingly, appropriate changes have been made to the rule as proposed, based on this second comment. Finally, this rule will be effective for the beginning of the 2000 shipping season.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, including the information and recommendation submitted by the committees 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.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. In § 916.160, paragraph (c) is added to read as follows:

§ 916.160 Reporting procedure.

* * * * *

(c) *Destination report.* Each shipper who ships nectarines shall furnish to the manager of the Nectarine Administrative Committee a report of the number of packages of nectarines shipped to each destination, and whether the nectarines were yellow-fleshed or white-fleshed, and whether the nectarines were ''CA Utility'' quality. The destination is defined as nectarine shipments to any domestic or international market. Destination information for domestic market shipments shall include city and state, and zip code, if known. Destination information for international market shipments shall include the country to which shipped. This report shall be submitted by the fifteenth of each month following the month in which nectarine shipments were made.

PART 917—PEACHES GROWN IN CALIFORNIA

3. In § 917.178, paragraph (c) is added to read as follows:

§ 917.178 Peaches.

* * * * *

(c) *Destination report.* Each shipper who ships peaches shall furnish to the manager of the Control Committee a report of the number of packages of peaches shipped to each destination, and whether the peaches shipped were yellow-fleshed or white-fleshed, and whether the peaches were ''CA Utility'' quality. The destination is defined as peach shipments to any domestic or international market. Destination information for domestic market shipments shall include the city and state, and zip code, if known. Destination information for international market shipments shall include the country to which shipped. This report shall be submitted by the fifteenth of each month following the month in which peach shipments were made.

Dated: February 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–2978 Filed 2–8–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV–00–985–1 FR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2000–2001 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 2000–2001 marketing year, which begins on June 1, 2000. This rule establishes salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil of 1,211,207 pounds and 65 percent, respectively, and for Class 3 (Native) spearmint oil of 1,033,648 pounds and 50 percent, respectively. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market.

EFFECTIVE DATE: June 1, 2000.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing

Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule establishes the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 2000–2001 marketing year, which begins on June 1, 2000. 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 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 the date of the entry of the ruling.

Pursuant to the authority in sections 985.50, 985.51, and 985.52 of the order, the Committee recommended the salable quantities and allotment percentages for the 2000–2001 marketing year at its October 6, 1999, meeting. With 7 members in favor and 1 member opposed, the Committee recommended the establishment of a salable quantity and allotment percentage for Class 1 (Scotch) spearmint oil of 1,211,207 pounds and 65 percent, respectively. The member in opposition favored the establishment of a lower salable quantity and allotment percentage. The Committee unanimously recommended the establishment of a salable quantity and allotment percentage for Class 3 (Native) spearmint oil of 1,033,648 pounds and 50 percent, respectively.

This final rule limits the amount of spearmint oil that handlers may purchase from, or handle for, producers during the 2000–2001 marketing year, which begins on June 1, 2000. Salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980.

The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order currently accounts for approximately 63 percent of the annual U.S. production of Scotch spearmint oil and approximately 93 percent of the annual U.S. production of Native spearmint oil.

When the order became effective in 1980, the United States produced nearly 100 percent of the world's supply of Scotch spearmint oil, of which approximately 72 percent was produced in the regulated production area in the Far West. International production characteristics have changed in recent years, however, with foreign Scotch spearmint oil production contributing significantly to world production. The Far West's market share as a percent of total world sales fell to a low of about 38 percent during the 1994–95 season. Beginning with the 1996–97 marketing year, the Committee has employed a marketing strategy for Scotch spearmint oil that is intended to foster market stability and that would retain and expand market share. Using this approach, the Far West's market share has increased to approximately 43 percent of total world sales. The Committee's current recommendation for Scotch spearmint oil could maintain market stability by avoiding extreme fluctuations in supplies and prices, and would help the industry remain competitive on an international level by hopefully regaining more of the Far West's historical share of the global market.

The order has contributed extensively to the stabilization of producer prices, which prior to 1980 experienced wide fluctuations from year to year. For example, between 1971 and 1975 the price of Native spearmint oil ranged from $3.00 per pound to $11.00 per pound. In contrast, under the order, prices have generally stabilized between $10.50 and $11.50 per pound. During the past year, however, the price of Native spearmint oil has decreased about $2.00 per pound despite the Committee's efforts to balance available supplies with the demand for the oil. Based on comments made at the Committee's meeting, factors contributing to the low price could include the relatively poor returns being realized from other essential oils, as well as the overall weak farm situation.

With approximately 90 percent of the U.S. production located in the Far West, and with nearly 80 percent of total world sales originating in the Far West, the Committee's method of calculating the Native spearmint oil salable quantity and allotment percentage continues to primarily utilize information on price and available supply as they are affected by the estimated trade demand.

The salable quantity and allotment percentage for each class of spearmint oil for the 2000–2001 marketing year is based upon the Committee's recommendation and the data presented below.

(1) Class 1 (Scotch) Spearmint Oil

(A) Estimated carry-in on June l, 2000—869,206 pounds. This figure is derived by subtracting the estimated 1999–2000 marketing year trade demand of 887,500 pounds from the revised 1999–2000 marketing year total available supply of 1,756,706 pounds.

(B) Estimated global sales for the 1999–2000 marketing year—2,082,500 pounds. This figure is based on preliminary information the Committee has compiled.

(C) Estimated Far West sales for the 1999–2000 marketing year—900,000 pounds.

(D) Approximate Far West percentage of estimated total world sales in 1999–2000—43 percent. This is down from the 1980 level of approximately 72 percent, but up from the low of approximately 38 percent during the 1994/95 marketing year.

(E) Total estimated allotment base for the 2000–2001 marketing year—1,863,396 pounds. This figure represents a one percent increase over the revised 1999–2000 allotment base.

(F) Recommended 2000–2001 allotment percentage—65 percent. This figure is based upon recommendations made at the October 6, 1999, meeting, as well as at the five Scotch spearmint oil production area meetings held during September 1999.

(G) The Committee's computed 2000–2001 salable quantity—1,211,207 pounds. This figure is the product of the recommended allotment percentage and the total estimated allotment base.

(H) Estimated available supply for the 2000–2001 marketing year—2,080,413 pounds. This figure is derived by adding the computed salable quantity to the estimated June 1, 2000, carry-in volume, and represents the total amount of Scotch spearmint oil that could be available to the market during the 2000–2001 marketing year.

(I) Estimated trade demand for Far West Scotch spearmint oil during the 2000–2001 marketing year—887,500 pounds. This figure is based upon estimates provided to the Committee by buyers of spearmint oil.

(J) Estimated carry-out on May 31, 2001—1,192,913 pounds. This figure is the difference between the 2000–2001 estimated trade demand and the 2000–2001 estimated available supply.

(2) Class 3 (Native) Spearmint Oil

(A) Estimated carry-in on June 1, 2000—64,602 pounds. This figure is the difference between the estimated 1999–2000 marketing year trade demand of 1,168,474 pounds and the revised 1999–2000 marketing year total available supply of 1,233,076 pounds.

(B) Estimated trade demand (domestic and export) for the 2000–2001 marketing year—1,170,974 pounds. This figure is based on the average of the estimates provided at the four production area meetings held in September 1999.

(C) Salable quantity required from the year 2000 production—1,106,372 pounds. This figure is the difference between the estimated 2000–2001 marketing year trade demand and the estimated carry-in on June 1, 2000.

(D) Total estimated allotment base for the 2000–2001 marketing year—2,067,296 pounds. This figure represents a one percent increase over the revised 1999–2000 allotment base.

(E) Computed allotment percentage—53.5 percent. This percentage is computed by dividing the required salable quantity by the total estimated allotment base.

(F) Recommended allotment percentage—50 percent. This is the Committee's recommendation based on the computed allotment percentage and takes into account the recent sharp decline in the Native spearmint oil price.

(G) The Committee's recommended salable quantity—1,033,648 pounds. This figure is the product of the recommended allotment percentage and the total estimated allotment base.

The salable quantity is the total quantity of each class of spearmint oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The Committee's recommended Scotch spearmint oil salable quantity of 1,211,207 pounds and allotment percentage of 65 percent are based on the Committee's goal of maintaining market stability by avoiding extreme fluctuations in supplies and prices, and thereby helping the industry remain competitive on the international level. The Committee's recommended Native spearmint oil salable quantity of 1,106,372 pounds and allotment percentage of 50 percent are based on the anticipated supply and trade demand during the 2000–2001 marketing year. The salable quantities are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year can be satisfied by an increase in the salable quantities. Both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 2000–2001 season may transfer such excess spearmint oil to a producer with spearmint oil production less than his or her annual allotment or put it into the reserve pool.

This regulation is similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this action are expected to be offset by the benefits derived from a stable market, a greater market share, and possible improved returns. In conjunction with the issuance of this final rule, the Committee's marketing policy statement for the 2000–2001 marketing year has been reviewed by the Department. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulations, fully meets the intent of section 985.50 of the order. During its discussion of potential 2000–2001 salable quantities and allotment percentages, the Committee considered: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' has also been reviewed and confirmed.

The establishment of these salable quantities and allotment percentages allows for anticipated market needs. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand. This rule also provides producers with information on the amount of spearmint oil which should be produced for next season in order to meet anticipated market demand.

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. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

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 7 spearmint oil handlers subject to regulation under the order, and approximately 119 producers of Class 1 (Scotch) spearmint oil and approximately 105 producers of Class 3 (Native) spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers have been defined as those whose annual receipts are less than $500,000.

Based on the SBA's definition of small entities, the Committee estimates

that 2 of the 7 handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 25 of the 119 Scotch spearmint oil producers and 7 of the 105 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. A normal spearmint oil producing operation would have enough acreage for rotation such that the total acreage required to produce the crop would be about one-third spearmint and two-thirds rotational crops. An average spearmint oil producing farm would thus have to have considerably more acreage than would be planted to spearmint during any given season. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil producing farms fall into the SBA category of large businesses.

This final rule establishes the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 2000–2001 marketing year. The Committee recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market. This action is authorized by the provisions of sections 985.50, 985.51, and 985.52 of the order.

Small spearmint oil producers generally are not extensively diversified and as such are more at risk to market fluctuations. Such small farmers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because incomes from alternate crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

The order has contributed extensively to the stabilization of producer prices, which prior to 1980 experienced wide fluctuations from year to year. For example, between 1971 and 1975 the price of Native spearmint oil ranged from $3.00 per pound to $11.00 per pound. In contrast, under the order, prices have generally stabilized between $10.50 and $11.50 per pound. During the past year, however, the price of Native spearmint oil has decreased about $2.00 per pound despite the Committee's efforts to balance available supplies with the demand for the oil. Based on comments made at the Committee's meeting, factors contributing to the low price could include the relatively poor returns being realized from other essential oils as well as the overall weak farm situation.

With approximately 90 percent of the U.S. production located in the Far West, and with nearly 80 percent of total world sales originating in the Far West, the Committee's method of calculating the Native spearmint oil salable quantity and allotment percentage continues to primarily utilize information on price and available supply as they are affected by the estimated trade demand.

Alternatives to this rule included not regulating the handling of spearmint oil during the 2000–2001 marketing year, and recommending either higher or lower levels for the salable quantities and allotment percentages. The Committee reached its recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil after careful consideration of all available information, including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) prospective production of each class of oil; (4) total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Based on its review, the Committee believes that the salable quantity and allotment percentage levels recommended will achieve the objectives sought.

Without any regulations in effect, the Committee believes the industry would return to the pattern of cyclical prices of prior years, as well as suffer the potentially price depressing consequence that a release of over a million pounds of spearmint oil reserves would have on the market. According to the Committee, higher or lower salable quantities and allotment percentages would not achieve the intended goals of market and price stability, with market share maintenance and growth.

Annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. Reporting and recordkeeping requirements have remained the same for each year of regulation. These requirements have been approved by the Office of Management and Budget under OMB Control No. 0581–0065. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers and handlers. All reports and forms associated with this program are reviewed periodically in order to avoid unnecessary and duplicative information collection by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Finally, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Like all Committee meetings, the October 6, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons were also invited to submit information on the regulatory and informational impacts of this action on small businesses.

A proposed rule was published in the **Federal Register** (64 FR 238) on December 13, 1999. A 30-day comment period was provided to allow interested persons the opportunity to respond to the proposal, including any regulatory and informational impacts of this action on small businesses. A copy of the proposed rule was faxed and mailed to the Committee office, which in turn notified Committee members and spearmint oil producers and handlers of the proposed action. In addition, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. A copy of the proposal was also

made available on the Internet by the U.S. Government Printing Office. No comments were received. Accordingly, no changes are made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation 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.

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.

2. A new § 985.219 is added to read as follows:

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

§ 985.219 Salable quantities and allotment percentages—2000–2001 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2000, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 1,211,207 pounds and an allotment percentage of 65 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,033,648 pounds and an allotment percentage of 50 percent.

Dated: February 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–2979 Filed 2–8–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 1

[Docket No. 98–043–2]

Field Study; Definition

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Animal Welfare regulations by clarifying the definition of the term *field study.* We will clarify that a field study cannot involve an invasive procedure, harm the animals under study, or materially alter the behavior of the animals under study. As worded prior to this final rule, the definition of *field study* could be interpreted to mean that a field study may include one of these situations. This action will help ensure the proper use and care of animals used in field studies.

EFFECTIVE DATE: March 10, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry DePoyster, Senior Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1228; (301) 734–7586.

SUPPLEMENTARY INFORMATION: The Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, carriers, and intermediate handlers.

The regulations established under the Act are contained in title 9 of the Code of Federal Regulations, chapter I, subchapter A, parts 1, 2, and 3. Part 1 defines various terms used in parts 2 and 3.

As defined in § 1.1 of the regulations prior to this final rule, *field study* meant any study that is ''conducted on free-living wild animals in their natural habitat, which does not involve an invasive procedure, and which does not harm or materially alter the behavior of the animals under study.''

We have always intended that field studies not include any invasive procedures, harm the animals under study, or materially alter the behavior of the animals under study. However, we were concerned that the definition, as worded above, could be interpreted to mean that a field study could include any one of these situations.

On July 31, 1998, we published in the **Federal Register** (63 FR 40844–40845, Docket No. 98–043–1) a proposal to amend the definition of *field study* in § 1.1 of the regulations by defining *field study* as any study conducted on free-living wild animals in their natural habitat. We also proposed to add the provision that the term *field study* excludes any study that involves an invasive procedure *or* has the potential to harm or materially alter the behavior of the animals under study. This proposed action was based on the need to ensure that studies conducted in free-living wild animals in their natural habitat are correctly classified as field studies based on the definition of *field study.*

We solicited comments concerning our proposal for 60 days ending September 29, 1998. We received seven comments. They were from universities; animal welfare organizations; an association representing birds; an association representing fish, reptiles, and amphibians; and an association representing zoos and aquariums. Two commenters supported the proposal as written. However, one of these commenters and the remaining commenters had concerns that are discussed below.

One commenter stated that the previous definition of *field study* was perfectly clear and unambiguous and did not need to be amended. In addition, two commenters stated that the proposed change in the definition of *field study* would exclude all projects that involve invasive procedures. One commenter requested that we delay the change of the definition. Two commenters stated that any study has the potential to harm or materially alter the behavior of the animals under study; therefore, no study could be classified as a field study.

We do not believe that the previous definition was clear to everyone. For instance, two commenters stated that the proposed change in the definition of *field study* would exclude all projects that involve invasive procedures. However, the previous definition of *field study* always excluded studies that involved invasive procedures, harmed the animals under study, or materially altered the behavior of the animals under study. In addition, in the past, some entities interpreted the definition to mean that a *field study* may include any one of these situations as long as it did not include all of them. In our proposed definition of *field study,* we clarified that a study that includes any one of the situations could not be considered a field study.

As to the use of the word potential, we agree that it is unnecessary; therefore, we are removing the word