

The Committee met on March 12, 1996, and unanimously recommended 1996-97 expenditures of \$114,000 and an assessment rate of \$0.19 per 50-pound bag or equivalent of onions. In comparison, last year's budgeted expenditures were \$72,000. The assessment rate of \$0.19 is \$0.07 higher than last year's established rate. Major expenditures recommended by the Committee for the 1996-97 year include \$34,000 for administrative expenses, \$62,000 for research and promotion, and \$9,000 for compliance. Budgeted expenses for these items in 1995-96 were \$28,000, \$22,000, and \$9,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Walla Walla Sweet Onions. Onion shipments for the year are estimated at 600,000 50-pound bags which should provide \$114,000 in assessment income, which will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1996-97 fiscal period are estimated at \$27,000. Funds in the reserve will be kept within the maximum permitted by the order.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Agricultural Marketing Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The

Committee's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material 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.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period begins on June 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to the assessment rate action issued last year; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 956 is amended as follows:

#### **PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON**

1. The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new §956.202 is added to read as follows:

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

#### **§ 956.202 Assessment rate.**

On and after June 1, 1996, an assessment rate of \$0.19 per 50 pound bag or equivalent is established for Walla Walla Sweet Onions.

Dated: April 30, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

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BILLING CODE 3410-02-P

#### **7 CFR Part 985**

[Docket No. FV96-985-2-IFR]

#### **Spearmint Oil Produced in the Far West; Assessment Rate**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule establishes an assessment rate for the Spearmint Oil Administrative Committee (Committee) under Marketing Order No. 985 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of spearmint oil produced in the Far West. Authorization to assess spearmint oil handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. **DATES:** Effective on June 1, 1996. Comments received by June 5, 1996, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone (503) 326-2724; or Tershirra T. Yeager, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202) 720-5127.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho,

Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." The marketing 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 rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Far West spearmint oil handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable spearmint oil beginning June 1, 1996, and continuing until amended, suspended, or terminated. 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. Such 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 requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 the 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 260 producers of spearmint oil in the production area and 8 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. A minority of spearmint oil producers and handlers may be classified as small entities.

The spearmint oil marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Far West spearmint oil. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on February 27, 1996, and unanimously recommended 1996-97 expenditures of \$230,752 and an assessment rate of \$0.10 per pound of spearmint oil. In comparison, last year's budgeted expenditures were \$233,272. The assessment rate of \$.10 is the same as last year's established rate. Major expenditures recommended by the Committee for 1996-97 include \$96,200 for administrative expenses, \$113,552 for salaries, and \$21,000 for committee travel. Budgeted expenses for these items in 1995-96 were \$102,900, \$107,372, and \$23,009, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Far West spearmint oil. Spearmint oil shipments for the year are estimated at 2,081,610 pounds which should provide \$208,161 in assessment income. Income derived from handler assessments, along with interest income and funds from the committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1996-97 fiscal year are estimated at \$162,923. Funds in the reserve will be kept within the maximum permitted by the order.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by

the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996-97 budget and those for subsequent fiscal years will be reviewed and as appropriate, approved by the Department.

After consideration of all relevant material 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.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 fiscal period begins on June 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable spearmint oil handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely

received will be considered prior to finalization of this rule.

#### 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—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. Section 985.141 is added to read as follows:

##### **§ 985.141 Assessment rate.**

On and after June 1, 1996, an assessment rate of \$0.10 per pound is established for Far West spearmint oil. Unexpended funds may be carried over as a reserve.

Dated: April 30, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 96-11152 Filed 5-3-96; 8:45 am]

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#### **7 CFR Part 1007**

[Docket No. AO-366-A37; DA-95-22]

#### **Milk in the Southeast Marketing Area; Order Amending the Order**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends certain location adjustments under the Southeast Federal milk marketing order. The amendments are based upon industry proposals considered at a public hearing held on September 19, 1995. The amended order was approved by more than two-thirds of the producers voting in the specified marketing area.

**EFFECTIVE DATE:** July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

**SUPPLEMENTARY INFORMATION:** This administrative rule is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to

examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended order will promote orderly marketing of milk by producers and regulated handlers.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a 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 its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

#### Prior Documents in This Proceeding

Notice of Hearing: Issued August 11, 1995; published August 17, 1995 (60 FR 42815).

Supplemental Notice of Hearing: Issued September 8, 1995; published September 13, 1995 (60 FR 47495).

Recommended Decision: Issued December 18, 1995; published December 27, 1995 (60 FR 66929).

Final Decision: Issued March 18, 1996; published March 22, 1996 (61 FR 11756).

#### Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeast marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Southeast order, as hereby amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area. The minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The Southeast order, as hereby amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk which is marketed within the Southeast marketing area to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is favored by at least two-thirds of the producers who during December 1995 were engaged in the production of milk for sale in the Southeast marketing area.

#### List of Subjects in 7 CFR Part 1007

Milk marketing orders.

Order Relative to Handling

*It is therefore ordered*, that on and after the effective date hereof, the