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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Docket No. FV00-985-3 FIR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1999-2000 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule that increased the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1999-2000 marketing year. This interim final rule amended a prior interim final rule. When combined, the two interim final rules increased the Native spearmint oil salable quantity by 184,160 pounds from 1,125,755 pounds to 1,309,915 pounds, and the allotment percentage by 9 percent from 55 percent to 64 percent. 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 these actions to avoid extreme fluctuations in supplies and prices, and, thus, help to maintain stability in the Far West spearmint oil market.

EFFECTIVE DATE: June 21, 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 385, Portland,

Oregon 97204-2807; 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, P.O. 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, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491; Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

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 Nevada, and Utah), hereinafter referred to as the "order." The 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 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 continues an increase in the quantity of Native spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1999-2000 marketing year, which ends on May 31, 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.

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 order). Spearmint oil is also produced in the Midwest. The production area covered by the order normally 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.

This final rule adopts, without change, the provisions of an interim final rule published in the **Federal Register** on March 24, 2000 (65 FR 15832) that amended an interim final rule that was published in the **Federal Register** on February 10, 2000 (65 FR 6528). The two rules together increased the Native spearmint oil salable quantity that handlers may purchase from, or handle for, producers during the 1999-2000 marketing year, which ends on May 31, 2000, by 184,160 pounds from 1,125,755 pounds to 1,309,915 pounds. The rules also increased the 1999-2000 allotment percentage by a total of 9 percent, from 55 percent to 64 percent.

The initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 1999-2000 marketing year were recommended by the Committee at its October 7, 1998 meeting. The Committee recommended salable quantities of 1,199,190 pounds and 1,125,755 pounds, and allotment percentages of 65 percent and 55 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the November 17, 1998 issue of the **Federal Register** (63 FR 63804). A final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1999-2000 marketing year was published in the January 19, 1999, issue of the **Federal Register** (64 FR 2799).

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's individual allotment base for the applicable class of spearmint oil.

Sections 985.50, 985.51, and 985.52 provide the Committee authorization to consider and recommend salable quantities and allotment percentages for each class of spearmint oil for an ensuing marketing year. Section 985.51(b) provides the authority for the Committee to recommend that an increase in the salable quantity and allotment percentage for either or both classes of oil be considered.

Taking into consideration the following discussion on adjustments to the Native spearmint oil salable quantity, the 1999–2000 marketing year salable quantity of 1,125,755 pounds will, therefore, be increased to 1,309,915 pounds.

The original total industry allotment base for Native spearmint oil for the 1999–2000 marketing year was established at 2,046,828 pounds and was revised during the year to 2,046,214 pounds to reflect a loss of 614 pounds of base due to non-production of some producers' total annual allotments. The Committee has used this revised allotment base in computing the increases to the Native spearmint oil salable quantity.

By increasing the salable quantity and allotment percentage from 1,125,755 pounds to 1,309,915 pounds, and 55 percent to 64 percent, respectively, this final rule makes an additional amount of Native spearmint oil available by releasing such oil from the reserve pool. When applied to each individual producer, the additional 9 percent allotment percentage increase allows each producer to take up to an amount equal to 9 percent of their allotment base from their Native spearmint oil reserve. If a producer does not have any reserve pool oil, or has less than 9 percent of their allotment base in the reserve pool, the increase in allotment percentage will actually make less than such amount available to the market.

For the 1999–2000 marketing year, producers receiving 18,324 pounds of additional allotment through these increases did not have any Native spearmint oil in reserve. Thus, rather than the 184,160 additional pounds as

computed in the two interim final rules, this action effectively makes an additional 165,836 pounds of Native spearmint oil available to the market.

Summary of the Native Spearmint Oil Increases for the 1999–2000 Marketing Year

(A) Estimated 1999–2000 Allotment Base—2,046,828 pounds. This is the figure the original 1999–2000 salable quantities and allotment percentages for both classes of spearmint oil were based on.

(B) Revised 1999–2000 Allotment Base—2,046,214 pounds. This is 614 pounds less than the estimated allotment base of 2,046,828 pounds. This is less because some producers failed to produce all of their previous year's allotment.

(C) Initial 1999–2000 Allotment Percentage—55 percent. This was recommended by the Committee on October 7, 1998.

(D) Initial 1999–2000 Salable Quantity—1,125,755 pounds. This figure is 55 percent of the estimated allotment base of 2,046,828 pounds.

(E) Initial Increase in Allotment Percentage—5 percent. This was recommended by the Committee on January 13, 2000.

(F) Initial Revision of the 1999–2000 Allotment Percentage—60 percent. This figure was derived by adding the initial increase in the allotment percentage of 5 percent to the initial 1999–2000 allotment percentage of 55 percent and was effective on February 11, 2000.

(G) Initial Computed Increase in the 1999–2000 Salable Quantity—102,311 pounds. This is the product of the revised 1999–2000 allotment base of 2,046,214 and the initial 5 percent increase.

(H) Initially Revised 1999–2000 Salable Quantity—1,228,066 pounds. This figure, effective on February 11, 2000, is the sum of the initial salable quantity of 1,125,755 pounds and the initial computed increase of 102,311 pounds, and is approximately 60 percent of the estimated 1999–2000 allotment base of 2,046,214 pounds.

(I) Additional Increase in the Allotment Percentage—4 percent. This percentage increase was recommended by the Committee at its February 23, 2000, meeting.

(J) Amended 1999–2000 Allotment Percentage—64 percent. This is the sum of the initial allotment percentage of 55 percent and the 5 and 4 percent increases, and was effective on March 25, 2000.

(K) Additional Computed Increase in the 1999–2000 Salable Quantity—81,849 pounds. This is the product of

the revised 1999–2000 allotment base of 2,046,214 pounds and the additional 4 percent increase in the allotment percentage.

(L) Final 1999–2000 Salable Quantity as Revised by Both Interim Final Rules—1,309,915 pounds. This figure is the sum of the initial salable quantity of 1,125,755 and the combined (computed) increases of 102,311 pounds and 81,849 pounds, and is approximately 64 percent of the revised 1999–2000 allotment base of 2,046,214 pounds.

The Department, based on its analysis of available information, has determined that the salable quantity and allotment percentage for Native spearmint oil for the 1999–2000 marketing year should continue to be 1,309,915 pounds and 64 percent, respectively.

This rule continues to relax the regulation of Native spearmint oil and will allow producers to meet market needs and improve returns. In conjunction with the issuance of this rule, the Department has reviewed the Committee's revised marketing policy statement for the 1999–2000 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of section 985.50 of the order.

During its discussion of revising the 1999–2000 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.

This increase in the 1999–2000 marketing year Native spearmint oil salable quantity and allotment percentage allows for anticipated market needs for this class of oil. In determining anticipated market needs, consideration by the Committee was given to historical sales, and changes and trends in production and demand.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the 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 marketing order and approximately 119 producers of Scotch spearmint oil and 105 producers of 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 would 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 would fall into the category of large businesses.

Small spearmint oil producers represent a minority of farming operations and are more vulnerable to market fluctuations. Such small farmers generally need to market their entire annual crop and do not have the resources 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 of stronger incomes from alternate crops which could support the operation for a period of time. Despite the advantage larger producers may have, increasing the Native salable quantity and allotment percentage will help both large and small producers by improving returns.

This rule finalizes an interim final rule that was published in the **Federal Register** on March 24, 2000 (65 FR 15832) that amended an interim final rule that was published in the **Federal Register** on February 10, 2000 (65 FR 6528). The initial interim final rule increased the 1999–2000 marketing year Native spearmint oil salable quantity by 102,311 pounds from 1,125,755 pounds to 1,228,066 pounds, and the allotment percentage by 5 percent from 55 percent to 60 percent. The amended interim final rule increased the 1999–2000 marketing year Native spearmint oil salable quantity by an additional 81,849 pounds from 1,228,066 pounds to 1,309,915 pounds, and the allotment percentage by an additional 4 percent from 60 percent to 64 percent. This rule continues to relax the regulation of Native spearmint oil and will allow producers to meet market needs and improve returns.

The Committee considered alternatives to the increases based on projections and historical data available at both meetings. Recommendations at both meetings generally supported increases of 5 percent and 4 percent, respectively. The Committee reached its recommendations to increase the Native spearmint oil salable quantity by 102,311 pounds and 81,849 pounds, respectively, and the allotment percentage by 5 percent and 4 percent, respectively, after careful consideration of all available information. The Committee believes that the level attained in this final rule will achieve the objectives sought. Without the increases, the Committee believes the industry will not be able to meet market needs through the end of the current marketing year (May 31, 2000).

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. 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.

The Committee's meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Interested persons were also invited to submit information on the regulatory and informational impacts of this action on small businesses.

Interim final rules concerning this action were published in the **Federal Register** on February 10, 2000 (65 FR 6528), and on March 24, 2000 (65 FR 15832). Copies of the rules were mailed and faxed to the Committee office, which in turn notified Committee members and spearmint oil producers and handlers. In addition, the Committee's meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Copies of both rules were also made available on the Internet by the U.S. Government Printing Office. No comments were received.

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 matter presented, including that contained in the prior proposed and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1999–2000 marketing year, both interim final rules increasing the 1999–2000 marketing year Native spearmint oil salable quantity and allotment percentage, the Committee's recommendations and other available information, it is found that to continue

to revise § 985.218 to change the salable quantity and allotment percentage for Native spearmint oil, 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

Accordingly, the interim final rule amending 7 CFR part 985 as published at 65 FR 15832 on March 24, 2000, and which amended the interim final rule published at 65 FR 6528 on February 10, 2000, is adopted as a final rule without change.

Dated: May 16, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-12801 Filed 5-19-00; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1005, 1006, 1007, 1126, 1131, and 1135

[Docket No. DA-97-12]

Milk in the New England and Other Marketing Areas; Order Amending the Orders; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Agricultural Marketing Service published in the **Federal Register** on September 1, 1999, (64 FR 47898) a final rule which consolidated 31 Federal milk marketing orders into 11 orders. This document corrects an error in section 73 of 7 of those orders by changing the term "pool plant operator" to "handler." The remaining 4 orders contain the correct language.

EFFECTIVE DATE: This correction is effective May 22, 2000.

FOR FURTHER INFORMATION CONTACT:

Nicholas Memoli, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-

1932, e-mail address Nicholas.Memoli@usda.gov.

SUPPLEMENTARY INFORMATION:

Background and Need for Correction

In the final rule (DA-97-12) issued August 23, 1999, and published in the **Federal Register** on September 1, 1999 (64 FR 47898), an error in Section 73(a) and (b) of Parts 1001, 1005, 1006, and 1007, and Section 73(b) of Parts 1126, 1131, and 1135 was inadvertently made. Specifically, the term "handler" was changed to "pool plant operator." The correct term is used in the 4 remaining orders (Parts 1030, 1032, 1033 and 1124) and is only different in the 7 orders because of an oversight in drafting the amendments to the orders. Therefore, the applicable provisions of the 7 orders need to be corrected.

List of Subjects in 7 CFR Parts 1000 to 1199

Milk orders.

Accordingly, 7 CFR Parts 1001, 1005, 1006, 1007, 1126, 1131, and 1135 are corrected by making the following correcting amendments:

PARTS 1001, 1005, 1006, 1007, 1126, 1131, and 1135—[AMENDED]

1. The authority citation for Parts 1001, 1005, 1006, 1007, 1126, 1131, and 1135 continues to read as follows:

Authority: 7 U.S.C. 601-674, and 7253.

§§ 1001.73, 1005.73, 1006.73, 1007.73, 1126.73, 1131.73, 1135.73 [Amended]

2. In the introductory text of §§ 1001.73(a) and (b), 1005.73(a) and (b), 1006.73(a) and (b), 1007.73(a) and (b), 1126.73(b), 1131.73(b), and 1135.73(b), the words "pool plant operator" are revised to read "handler."

Dated: May 17, 2000.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 00-12799 Filed 5-19-00; 8:45 am]

BILLING CODE 3410-02-P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

CFR Correction

In Title 12 of the Code of Federal Regulations, parts 600 to End, revised as of January 1, 2000, page 404, Part 707, Appendix C is corrected by adding Appendices A and B to the end to read as follows:

APPENDIX C TO PART 707—OFFICIAL STAFF INTERPRETATIONS

* * * * *

Appendix A to Part 707—Annual Percentage Yield Calculation

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

1. *Rounding for calculations.* The following are examples of permissible rounding rules for calculating dividends and the annual percentage yield:

i. The daily rate applied to a balance carried to five or more decimals. For example; .008219178%, 3.00% for a 365 day year, would be rounded to no less than .00822%.

ii. The daily dividends or interest earned carried to five or more decimals. For example; \$.08219178082, daily dividends on \$1,000 at 3% for a 365 day year, would be rounded to no less than \$.08219.

2. *Exponents in a leap year.* The annual percentage yield formula's exponent numerator will remain 365 in leap years. The "days in term" figure used in the denominator should be consistent with the length of term used in the dividends calculation.

3. *First tier of a tiered-rate account.* When credit unions use a rate table, the first tier of a tiered rate account is to be disclosed and advertised; "Up to but not exceeding * * *", "\$.01 to * * *", or similar language.

4. *Term Share Accounts Opened in Midterm.* For club accounts that meet the definition of a term share account, the annual percentage yield is based on the maximum number of days in the term not to exceed 365 days (or 366 days in a leap year).

Part II. Annual Percentage Yield Earned for Periodic Statements

1. *Balance method.* The dividend or interest figure used in the calculation of the annual percentage yield earned may be derived from the daily balance method or the average daily balance method. Regardless of the dividend calculation method, the balance used in the annual percentage yield earned formula is the average daily balance. The average daily balance calculation is the sum of the balances for each day in the period divided by the number of days in the period. The balance for each day is based on a point in time; i.e. beginning of day balance, end of day balance, closing of day balance, etc. Each day's balance, for dividend accrual and payment purposes, must be based on the same point in time and cannot be based on the day's low balance.

2. *Negative balances prohibited.* Credit unions must treat a negative account balance as zero to determine the balance on which the annual percentage yield earned is calculated. (See commentary to § 707.7(a)(2).)

A. General Formula

1. *Accrued but uncredited dividends.* To calculate the annual percentage yield earned, accrued but uncredited dividends:

i. May not be included in the balance for statements that are issued at the same time or less frequently than the account's compounding and crediting frequency. For