

expansion while retaining the mechanism for dealing with oversupply situations. At its August 28, 1995, meeting, the Board recommended that an increase of 15 percent (637 tons) for market expansion be included in the inshell trade demand which was used to compute the interim percentages. The established final percentages are based on the final inshell trade demand, and will make available an additional 637 tons for desirable carryout. The total free supply will be the final trade demand of 4,985 tons plus the declared carryin of 536 tons or 5,521 tons. This is 130 percent of prior years' sales and exceeds the goal of the Guidelines.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, the information and recommendations submitted by the Committee, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 2665, January 29, 1996), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 982 is amended as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982, which was published at 61 FR 2665 on January 29, 1996, is adopted as a final rule without change.

Dated: March 13, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96-6694 Filed 3-19-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 985

[FV95-985-5FR]

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1996-97 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: 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 1996-97 marketing year. 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, thus helping to maintain stability in the spearmint oil market.

EFFECTIVE DATE: June 1, 1996 through May 31, 1997.

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; telephone: (503) 326-2724; or Tershira 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 final 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). This 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 final rule has been reviewed under Executive Order 12778, 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 final 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 1996-97 marketing year, which begins on June 1, 1996. This final 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed no later than 20 days after 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 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 8 spearmint oil handlers subject to regulation under the marketing order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) oil allotment base, and approximately 145 producers hold Class 3 (Native) oil allotment base. Small agricultural service firms are 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 have been defined as those whose annual receipts are less than \$500,000. A minority of producers and handlers of Far West spearmint oil may 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. 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 accounts

for approximately 75 percent of the annual U.S. production of spearmint oil.

A proposed rule was issued on January 17, 1996, and published in the Federal Register (61 FR 1855, January 24, 1996). That rule provided a 30-day comment period which ended February 23, 1996. No comments were received.

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the marketing order, the Committee recommended the salable quantities and allotment percentages for the 1996-97 marketing year at its September 26, 1995, meeting. The Committee recommended the establishment of a salable quantity and allotment percentage for Scotch spearmint oil in a vote of six in favor and one opposed. The member voting in opposition favored the establishment of a higher salable quantity and allotment percentage. The Committee recommended the establishment of a salable quantity and allotment percentage for Native spearmint oil in a vote of seven in favor and none opposed. The Chairman abstained from voting on both actions.

This final rule establishes a salable quantity of 989,303 pounds and an allotment percentage of 55 percent for Scotch spearmint oil, and a salable quantity of 1,074,902 pounds and an allotment percentage of 54 percent for Native spearmint oil. This final rule limits the amount of spearmint oil that handlers may purchase from, or handle for, producers during the 1996-97 marketing year, which begins on June 1, 1996. Salable quantities and allotment percentages have been placed into effect each season since the marketing order's inception in 1980.

The Committee revised its procedure for calculating the salable quantity and allotment percentage for Scotch spearmint oil this season by using a formula based on that portion of the entire North American market share targeted by the Far West. The Committee chose to use a targeted percentage of the North American market share in its deliberations due to the increased production of Scotch spearmint oil in Canada and certain domestic areas outside of the Far West production area. The Far West spearmint oil industry maintained approximately 72 percent of the North American Scotch spearmint oil market share during 1980, the marketing order's first year of operation. By 1994, this had gradually diminished to the point where the Far West had sales of Scotch spearmint oil representing approximately 52 percent of the North American market. Reestablishing the Far West with a majority of the North

American market share is a priority of the Committee, while at the same time maintaining market stability. Although desiring to regain the market share level realized in 1980, the Committee plans to work at achieving this goal over a period of several years.

The method of calculating the Native spearmint oil salable quantity and allotment percentage remains unchanged, with the primary consideration being price and available supply as affected by the estimated trade demand for Far West spearmint oil. United States production of Native spearmint oil is centered in the Far West which produces approximately 90 percent of the total supply.

The salable quantity and allotment percentage for each class of spearmint oil for the 1996-97 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 1, 1996—196,384 pounds. This number is derived by subtracting the estimated 1995-96 marketing year trade demand of 862,784 pounds from the revised 1995-96 marketing year total available supply of 1,059,168 pounds.

(B) Estimated North American production (U.S. and Canada) for the 1996-97 marketing year—1,549,316 pounds. This number is an estimate based on Committee information provided by producers and buyers.

(C) Percentage of North American market targeted—64.67 percent. This number is an average of the recommended target percentages made at each of the six regional producer meetings held throughout the Far West production area during the month of September, 1995.

(D) Total quantity of Scotch spearmint oil needed to reach targeted percentage—1,001,891 pounds. This number is the product of the estimated 1996-97 North American production and the targeted percentage.

(E) Minimum amount desired to have on hand throughout the season—191,667 pounds. This number is an average of those amounts recommended by producers at the six regional producer meetings, and reflects the Committee's commitment in regaining market share by maintaining a minimum quantity on hand.

(F) Total supply required—1,193,558 pounds. This number is derived by adding the minimum desired on hand amount to the total quantity required to meet the targeted percentage.

(G) Additional quantity required—997,174 pounds. This represents the actual amount of additional or new oil

needed to meet the Committee's projections, and is computed by subtracting the estimated carry-in of 196,384 pounds from the total supply required of 1,193,558 pounds.

(H) Total allotment base for the 1996-97 marketing year—1,798,732 pounds.

(I) Computed allotment percentage—55 percent. This percentage is computed by dividing the required salable quantity by the total allotment base.

(J) Recommended allotment percentage—55 percent.

(K) The Committee's recommended salable quantity—989,303 pounds.

(2) Class 3 (Native) Spearmint Oil
(A) Estimated carry-in on June 1, 1996—44,959 pounds. This number is derived by subtracting the estimated 1995-96 marketing year trade demand of 1,084,436 pounds from the revised 1995-96 marketing year total available supply of 1,129,395 pounds.

(B) Estimated trade demand (domestic and export) for the 1996-97 marketing year—1,084,436 pounds. This number is an estimate based on the average of total annual sales made between 1988 and 1994, handler estimates, and Committee information provided by producers and buyers.

(C) Salable quantity required from 1996 production—1,039,477 pounds. This number is the difference between the estimated 1996-97 marketing year trade demand and the estimated carry-in on June 1, 1996.

(D) Total allotment base for the 1996-97 marketing year—1,990,559 pounds.

(E) Computed allotment percentage—52.2 percent. This percentage is computed by dividing the required salable quantity by the total allotment base.

(F) Recommended allotment percentage—54 percent. The Committee recommended a percentage slightly higher than that computed so as to maintain an ample supply of Native spearmint oil available for the market.

(G) The Committee's recommended salable quantity—1,074,902 pounds.

The salable quantity is the total quantity of each class of 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 salable quantities of 989,303 pounds and 1,074,902 pounds, and allotment percentages of 55 percent and 54 percent for Scotch and Native spearmint oils, respectively, are based on anticipated 1996-97 marketing year supply and trade demand. The

relatively higher recommended salable quantities and allotment percentages for both Scotch and Native spearmint oils for the 1996–97 marketing year, when compared to those initially recommended for the 1995–96 marketing year, are demonstrative of the Committee's concern with the increasing production of spearmint oil, both inside and outside the marketing order production area, and the industry's desire to maintain a significant share of the North American market while maintaining the overall stability of the market.

The recommended 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 1996–97 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 final action are expected to be offset by the benefits derived from improved returns.

The establishment of these salable quantities and allotment percentages allows for anticipated market needs based on historical sales, changes and trends in production and demand, and information available to the Committee. Adoption of this final rule also provides spearmint oil producers with information on the amount of oil which should be produced for next season.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the Committee, and other available information, it is found that this action 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—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 section 985.215 is added to read as follows:

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

§ 985.215 Salable quantities and allotment percentages—1996–97 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1996, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 989,303 pounds and an allotment percentage of 55 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,074,902 pounds and an allotment percentage of 54 percent.

Dated: March 13, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–6696 Filed 3–19–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1002

[DA–95–23B]

Milk in the New York–New Jersey Marketing Area; Final Rule: Termination of Certain Order Provisions and Removal of Certain Regulations of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule removes certain sections of the New York–New Jersey Federal milk marketing order (Order 2). Specifically, this document removes the requirements that certain changes to the market administrator's rules and regulations be published in the Federal Register. Additionally, this rule removes from the Annual Code of Federal Regulations the publication of two Order 2 sections containing the market administrator's rules and regulations concerning cooperative payments. This action is taken to reduce printing costs and to comply with the President's regulatory reform initiative.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202)690–1366.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Interim

Rule; Issued November 27, 1995; published December 4, 1995 (60 FR 62018).

This regulatory action is being taken as part of the National Performance Review Program to eliminate unnecessary regulations and improve those that remain in force.

The Department is issuing this rule in conformance with Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This action reduces the cost involved with publishing in the Federal Register and the annual Code of Federal Regulations rules and regulations that are printed and made available to interested parties by the market administrator.

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

This rule is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the New York–New Jersey marketing area. It is hereby found and determined that the following provisions of the order no longer effectuate the declared policy of the Act: