

Presidential Documents

Title 3—

Proclamation 4747 of April 10, 1980

The President

Days of Remembrance of Victims of the Holocaust

By the President of the United States of America

A Proclamation

Thirty-five years ago, in the closing days of World War II, U.S. Armed Forces liberated the Dachau concentration camp in southern Germany. Words can hardly convey the shock and horror the world felt on seeing the victims—both the living and the dead—of the Nazi program of deliberate genocide.

Dachau and the other death camps, Buchenwald, Auschwitz, Treblinka and the others, were the machinery used by the Nazi regime to perpetrate the Holocaust—the systematic, state-sponsored extermination of six million Jews and the murders of millions of other people. The Holocaust was a crime virtually without equal in history. It has left deep moral scars on all human-kind. No one who participated in the liberation of those camps or who knows their history can ever forget them—least of all the 250,000 survivors who found a home and built a new life in this country after the war.

During my trip to Israel, I visited Yad Vashem, the Israeli memorial to the victims of the Holocaust. I vowed then, and I repeat now, that the world must never permit such evil to occur again.

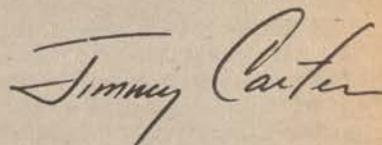
We must study the record of the Holocaust and learn its lessons. We must never forget the terrible fruits of bigotry and hatred, and continually rededicate ourselves to the principles of equality and justice for all peoples.

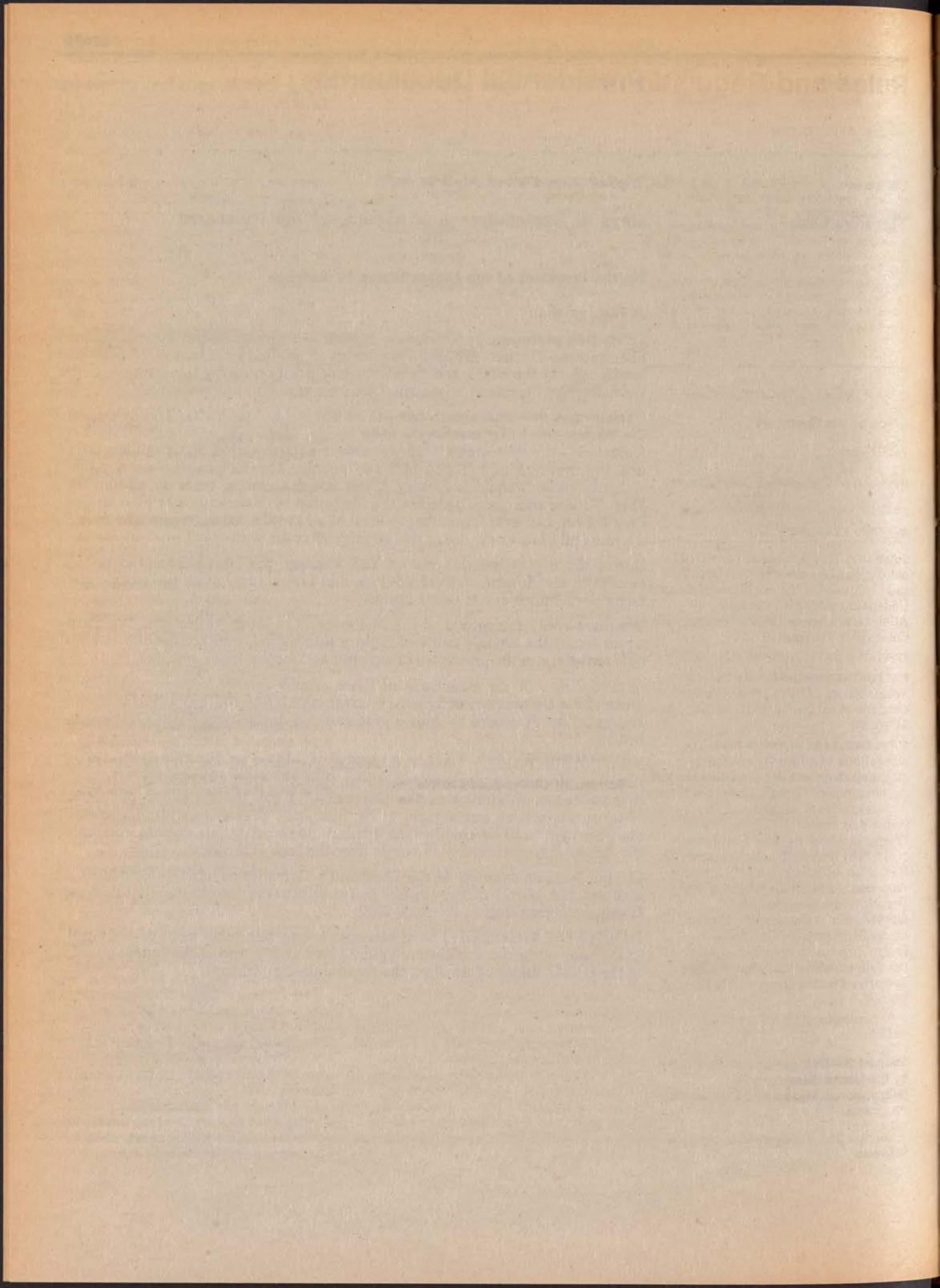
In recognition of the magnitude of those crimes against humanity, the Congress of the United States, by joint resolution (S.J. Res. 97), has authorized and requested the President to issue a proclamation designating a week of remembrance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate April 13 through April 19, 1980 as "Days of Remembrance of Victims of the Holocaust." I ask the American people to observe this solemn anniversary of the liberation of Dachau with appropriate study, prayers and ceremonies, as a tribute to our determination to eliminate the hatred that produced such horror from the face of the earth.

On the recommendation of the President's Commission on the Holocaust, I also ask the people of the United States to observe International Holocaust Commemoration Day on April 13, 1980.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.





Rules and Regulations

Federal Register

Vol. 45, No. 73

Monday, April 14, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority to reflect the establishment of the positions of Deputy Under Secretary for International Affairs and Deputy Under Secretary for Commodity Programs.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Office of the General Counsel, Washington, D.C. 20250, (202-447-6035).

SUPPLEMENTARY INFORMATION: The delegations of authority are being amended to reflect the establishment of the positions of Deputy Under Secretary for International Affairs and Deputy Under Secretary for Commodity Programs which replace the former position of Deputy Under Secretary for International Affairs and Commodity Programs. Any action taken by the Deputy Under Secretary for International Affairs or the Deputy Under Secretary for Commodity Programs prior to the effective date of this rule which would otherwise be authorized under this rule, are hereby ratified.

Accordingly, 7 CFR Part 2 is amended as follows:

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

Section 2.63 is amended to read as follows:

§ 2.63 Deputy Under Secretaries for International Affairs and for Commodity Programs.

(a) *Delegations.* Pursuant to § 2.21, subject to reservations in § 2.22 and subject to policy guidance and direction by the Under Secretary, the following delegations of authority are made to the Deputy Under Secretary for International Affairs and the Deputy Under Secretary for Commodity Programs, to be exercised only during the absence or unavailability of the Under Secretary:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for International Affairs and Commodity Programs: *Provided That*, this authority shall be exercised by the respective Deputy Under Secretary in the order in which he or she has taken office as a Deputy Under Secretary.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

Dated: April 1, 1980.

Dale E. Hathaway,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 80-11151 Filed 4-11-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 985

[Docket No. F&V AO-79-1]

Spearmint Oil Produced in the Far West; Order Regulating Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule enacts the marketing order regulating the handling of spearmint oil produced in the Far West which includes the States of Washington, Idaho, Oregon and portions of California, Nevada, Montana, and Utah.

The order provides for the establishment of a Committee of producers and one public member for local administration. Producer allotment bases and annual allotments will be established to regulate the quantity of spearmint oil handlers may purchase from or handle on behalf of spearmint oil producers. This should result in greater market stability for spearmint oil producers.

EFFECTIVE DATE: The order will become effective April 14, 1980.

FOR FURTHER INFORMATION CONTACT:

J. S. Miller, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued September 19, 1979; published September 25, 1979 (44 FR 55184).

Notice of Recommended Decision—Issued January 4, 1980; published January 9, 1980, (45 FR 1888).

Final Decision—Issued February 22, 1980, (45 FR 13096).

Spearmint oil producers voted in a referendum conducted by mail ballot March 5, 1980 to March 14, 1980 to accept the order.

IMPACT STATEMENT: This final rule has been reviewed under the USDA criteria for implementing Executive Order 12044 and has been classified "significant". An Impact Analysis is available from J. S. Miller, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5053.

Findings and Determinations

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of spearmint oil produced in the Far West.

Upon the basis of the record, it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of spearmint oil produced in the production area in the same manner as, and is applicable only, to persons in the respective classes of commercial and industrial activity specified in, the marketing order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the

declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of spearmint oil produced in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of spearmint oil produced in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional Findings.* It is necessary in the public interest to make this order effective not later than its publication in the **Federal Register**. Any delay beyond that date would tend to disrupt the orderly marketing of spearmint oil during the 1980 season, which begins June 1, 1980. It is essential that the Spearmint Oil Administrative Committee, the administrative body provided for in the order, be selected and organized, and begin functioning as soon as possible so that the determination of a marketing policy for the 1980-81 marketing year would not be delayed beyond June 1, 1980, the beginning of that year.

Under the order, the Committee will have to issue allotment bases to producers of spearmint oil so that, in the event volume regulations are deemed necessary, a salable quantity and producers' annual allotments can be determined. In order to be able to plan their operations for the 1980-81 marketing year, producers must know as soon as possible the size of their base and the allotment that may be issued to them. Any delay in the effective date of the program would impede issuance of those bases and establishment of a marketing policy for the 1980-81 marketing year, thereby causing hardship. Moreover, the provisions of the order are well known to handlers of spearmint oil produced in the production area because: (1) A public hearing was held at Pasco, Washington, on October 16, 17 and 18, 1979, and evidence was received from producers, handlers and other interested persons; (2) the recommended decision and the final decision were published in the **Federal Register** on January 9, 1980 (45 FR 1888) and February 28, 1980 (45 FR 13096), respectively; (3) Copies of the order and its regulatory provisions were made available to all known persons who may be subject thereto, prior to the referendum which was held March 5 through March 14, 1980, to determine whether producers of spearmint oil in the production area favor or approve

issuance of this order; and (4) all known handlers of spearmint oil were mailed a copy of the marketing agreement, the regulatory provisions of which are identical to the order.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective upon publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act; 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations specified in section 8c(9) of the act) of more than 50 percent of the volume of spearmint oil covered by this order, refused or failed to sign the aforesaid proposed marketing agreement; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign the proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this 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, of spearmint oil produced in the production area; and

(3) The issuance of this order is favored or approved by producers who participated in a referendum on the question of its approval and who, during the period June 1, 1979, to January 31, 1980, were engaged within the Far West in the production of spearmint oil for market and such producers produced for market at least two thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered. That, on and after the effective date hereof, the handling of spearmint oil produced in the Far West shall be in conformity to and in compliance with the following terms and conditions:

A new Part 985 is added to Title 7 of the Code of Federal Regulations to read as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

Definitions

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985.2	Act.
985.3	Person.
985.4	Spearmint oil.

Sec.	
985.5	Production area.
985.6	Producer.
985.7	Handler.
985.8	Handle.
985.9	Marketing year.
985.10	Crop.
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Administrative Committee

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Expenses and Assessments

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Volume Limitations

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985.52	Issuance of volume regulation.
985.53	Allotment base.
985.54	Issuance of annual allotments.
985.55	Identification.
985.56	Excess oil.
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985.59	Transfers.

Reports and Records

985.60	Reports.
985.61	Records.
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Miscellaneous Provisions

985.64	Compliance.
985.65	Rights of the Secretary.
985.66	Derogation.
985.67	Agents.
985.68	Personal liability.
985.69	Duration of immunities.
985.70	Separability.
985.71	Effective time.
985.72	Termination.
985.73	Proceedings after termination.
985.74	Effect of termination or amendment.

Authority: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

Definitions

§ 985.1 Secretary

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the U.S. Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 985.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, Stat. 31, as amended; 7 U.S.C. 601-674).

§ 985.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ 985.4 Spearmint oil.

"Spearmint oil", hereinafter referred to as "oil", means the essential oil extracted by distillation from plants, grown in the production area, of the genus *Mentha*, species *Cardiaca* (commonly referred to as Scotch Spearmint), *Spicata* (commonly referred to as Native Spearmint), or such other species, grown in the production area, that produce a spearmint flavored oil. Oil shall be segregated into the following classes:

"Class 1"—Oil extracted from the first cutting of Scotch Spearmint.

"Class 2"—Oil extracted from the second cutting of Scotch Spearmint.

"Class 3"—Oil extracted from Native Spearmint.

"Class 4"—Oil which has a spearmint flavor, extracted from plants other than Scotch or Native Spearmint.

The Committee, with the approval of the Secretary may change these classes to recognize new, or delete obsolete, classes.

§ 985.5 Production area.

"Production area" means all the area within the States of Washington, Idaho, Oregon, and that portion of California and Nevada north of the 37th parallel and that portion of Montana and Utah west of the 111th meridian. The area shall be divided into the following districts:

(a) District 1. The State of Washington.

(b) District 2. The State of Idaho and that portion of the States of Montana, Nevada, and Utah included in the production area.

(c) District 3. The State of Oregon and that portion of the State of California included in the production area.

§ 985.6 Producer.

"Producer" is synonymous with "grower" and means any person engaged in a proprietary capacity in the commercial production of oil or who causes it to be produced.

§ 985.7 Handler.

"Handler" means any person who handles oil.

§ 985.8 Handle.

"Handle" means to prepare oil for market, acquire oil from a producer, use oil commercially of own production, or sell, transport, or ship (except as a common or contract carrier of oil owned by another), or otherwise place oil into the current of commerce within the production area or from the area to points outside thereof: *Provided*, That (a) the preparation for market of salable oil by producers who are not dealers or users, (b) the sale or transportation of salable oil by a producer to a handler of record within the production area, or (c) the transfer of excess oil by the producer to another producer to enable that producer to fill a deficiency in an annual allotment, or (d) the delivery of excess oil by the producer to the Committee or its designees, shall not be construed as handling.

§ 985.9 Marketing year.

"Marketing year" means the 12 months from June 1 to the following May 31, inclusive, or such other period as the Committee, with the approval of the Secretary, may establish.

§ 985.10 Crop.

"Crop" means that oil produced by a producer during the marketing year.

§ 985.11 Salable oil.

"Salable oil" means that oil which is free to be handled.

§ 985.12 Salable quantity.

"Salable quantity" means the total quantity of each class of oil which handlers may purchase from, or handle on behalf of, producers during a marketing year.

§ 985.13 Annual allotment.

"Annual allotment" means that portion of the salable quantity prorated to a producer.

§ 985.14 Part and subpart.

"Part" means the order regulating the handling of oil grown in the production area, and all rules and regulations issued thereunder. The order shall be a "subpart" of such part.

Administrative Committee**§ 985.20 Establishment and membership.**

A Spearmint Oil Administrative Committee is hereby established (hereinafter referred to as "Committee") and shall consist of eight members, each of whom shall have an alternate, to administer the terms and provisions of this part. Four of the members and alternates shall be producers in District 1; two members and alternates shall be producers in District 2; and one member

and alternate shall be a producer in District 3. One member and alternate shall represent the public.

§ 985.21 Eligibility.

Each member and alternate member of the Committee shall be, at the time of selection and during the term of office, a producer, or an officer or employee of a producer, in the district for which selected: *Provided*, That these requirements should not apply to the public member and alternate member.

§ 985.22 Term of office.

The term of office of each member and alternate member of the Committee shall be for two calendar years: *Provided*, That one-half of the initial members and alternates shall serve for terms ending December 31, 1980, and one-half of the initial members and alternates shall serve for terms ending December 31, 1981. Members and alternates shall serve in such capacity for the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. No member shall serve more than two consecutive terms as member and no alternate shall serve more than two consecutive terms as alternate.

§ 985.23 Nominations.

(a) *Procedure.* (1) Nominations for producer members of the Committee and their alternates shall be made at nomination meetings of producers in each District. Such meetings shall be held at such times (on or before November 1 of each year) and places as the Committee shall designate. One nominee shall be elected for each position to be filled. The names and addresses of each nominee shall be submitted to the Secretary not later than December 1 of each year.

(2) Only producers, including duly authorized officers or employees of producers present and eligible to serve as producer members of the Committee, shall participate in the nomination. If a producer produces oil in more than one district, the producer shall select the district in which that producer will participate and notify the Committee of the choice.

(3) Should the Committee find it impractical to hold nomination meetings, nominations may be submitted to the Secretary based on the results of balloting by mail. Ballots to be used may contain the names of candidates and a blank space for write-in candidates for each position, together with voting instructions. The eligible person receiving the highest number of

votes for a member or alternate position shall be the nominee for that position.

(4) The producer members of the Committee shall nominate the public member and alternate member at the first meeting following the selection of members for a new term of office.

(b) *Initial members.* As soon as practicable following the effective date of this subpart, the Secretary shall hold, or cause to be held, nomination meetings of producers in each district to nominate the initial members of the Committee.

(c) The Committee with the approval of the Secretary shall issue rules and regulations necessary to carry out the provisions of this section or to change the procedures in this section in the event they are no longer practical.

§ 985.24 Selection.

Committee members shall be selected by the Secretary from nominees submitted by the Committee or from among other eligible persons. Each person so selected shall qualify by filing a written acceptance with the Secretary prior to assuming the duties of the position.

§ 985.25 Alternate members.

An alternate for a member shall act in the place of such member (a) in the member's absence, (b) in the event of the member's death, removal, resignation, or disqualification, until a successor for the member's unexpired term has been selected and has qualified, or (c) when requested and designated by the member.

§ 985.26 Vacancies.

To fill any vacancy occasioned by the failure of any person appointed as a member or as an alternate member of the Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Committee, a successor to fill the unexpired term shall be nominated and appointed in the manner specified in §§ 985.23 and 985.24. If the names of the nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which appointment shall be made on the basis of representation provided for in § 985.20.

§ 985.27 Powers.

The Committee shall have the following powers:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this subpart.

§ 985.28 Duties.

The Committee shall have, among others, the following duties:

(a) To select from among its membership such officers and adopt such rules or by-laws for the conduct of its meetings as it deems necessary;

(b) To appoint such employees as it may deem necessary, and to determine the compensation and to define the duties of each employee;

(c) To appoint such subcommittees and consultants as it may deem necessary;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the Committee and to make copies of each such statement available to producers and handlers for examination at the office of the Committee;

(f) To cause the books of the Committee to be audited by a certified public accountant at such times as the Committee may deem necessary, or as the Secretary may request, to submit copies of each audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the offices of the committee by producers and handlers;

(g) To act as intermediary between the Secretary and any producer or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to oil;

(i) To submit to the Secretary such available information as may be requested or that the Committee may deem desirable and pertinent;

(j) To notify producers and handlers of all meetings of the Committee to consider recommendations for regulations and of all regulatory actions taken affecting producers and handlers;

(k) To give the Secretary the same notice of meetings of the Committee and its subcommittees as is given to its members;

(l) To investigate compliance and use means available to prevent violations of the provisions of this part;

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided

and to reapportion the representation of any district on the Committee: *Provided*, That such changes shall reflect insofar as practical, shifts in oil production within the production area and numbers of producers; and

(n) To establish with the approval of the Secretary such rules and regulations as are necessary or incidental to administration of this subpart, as are consistent with its provisions, and as would tend to accomplish the purposes of this subpart and the act.

§ 985.29 Procedure.

(a) At an assembled meeting, all votes shall be cast in person and seven members of the Committee shall constitute a quorum. Decisions of the Committee shall require the concurring vote of at least six members. If both a Committee member and appropriate alternate are unable to attend a Committee meeting, the Committee may designate any other alternate from the same district who is present at the meeting to serve in the member's place.

(b) The Committee may vote by mail, telephone, telegraph, or other means of communication: *Provided*, That each proposition is explained accurately, fully, and identically to each member. All votes shall be confirmed promptly in writing. Seven concurring votes and no dissenting votes shall be required for approval of a Committee action by such method.

§ 985.30 Expenses and compensation.

Members of the Committee, their alternates, subcommittees including any special subcommittees, shall serve without compensation but shall receive such allowances for necessary expenses, incurred in performing their duties, as may be approved by the Committee.

Research

§ 985.31 Research and development projects.

The Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution and consumption or efficient production of oil. The Committee shall consider ongoing research, by industry and grower organizations, in making its recommendations. The expense of such projects shall be paid from funds collected pursuant to § 985.41.

Expenses and Assessments**§ 985.40 Expenses.**

The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for such purposes as the Secretary may, pursuant to this subpart, determine to be appropriate, and for the maintenance and functioning of the Committee during each marketing year. The Committee shall submit to the Secretary a budget for each marketing year, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such year.

§ 985.41 Assessments.

(a) *Requirements for payment.* Each person who first handles salable oil shall pay to the Committee, upon demand, that handler's pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment fixed by the Secretary times the quantity of oil which the handler handles as the first handler thereof. The payment of assessments for the maintenance and functioning of the Committee and for such purposes as the Secretary may, pursuant to this subpart, determine to be appropriate, may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Rate of assessment.* The Secretary shall fix the rate of assessment to be paid by each handler. At any time during or after the marketing year, the Secretary may increase the rate of assessment as necessary to cover authorized expenses. Such increase shall be applied to all oil handled during the applicable marketing year. In order to provide funds for the administration of this part before sufficient operating income is available from assessments, the Committee may accept advance assessments and may also borrow money for such purpose. Advance assessments received from a handler shall be credited toward assessments levied against the handler during the marketing year.

§ 985.42 Accounting.

(a) *Excess funds.* At the end of a marketing year, funds in excess of the year's expenses may be placed in an operating reserve not to exceed approximately one marketing year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the Committee for

expenses authorized pursuant to § 985.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers: *Provided*, That any sum paid by a first handler in excess of that handler's pro rata share of the expenses during any marketing year may be applied by the Committee at the end of such marketing year to any outstanding obligations due the Committee from such person. Each handler's share of such excess funds shall be the amount of assessments paid in excess of that handler's pro rata share.

(b) *Disposition of funds upon termination of order.* Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practicable, such funds will be returned pro rata to the first handler from whom such funds were collected.

Volume Limitations**§ 985.50 Marketing policy.**

(a) The Committee shall meet on or before January 15 of each year to adopt a Marketing Policy for the ensuing marketing year or years. As soon as is practical following the meeting or meetings, the Committee shall submit to the Secretary recommendations for volume regulations deemed necessary to meet market requirements and establish orderly marketing conditions. Additional reports shall be submitted to the Secretary if the Committee subsequently adopts a new or revised policy because of changes in the demand and supply situation with respect to the various classes of oil.

(b) In determining such marketing policy, Committee consideration shall include but not be limited to:

- (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;
- (7) General market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

(c) Notice of the marketing policy recommendations for a marketing year and any later changes shall be announced publicly by the Committee, and be submitted promptly to the Secretary and all producers and handlers. The Committee shall publicly announce its marketing policy or revision thereof and notice and contents thereof shall be submitted to producers and handlers by bulletins or through appropriate media.

(d) As soon as practicable following the effective date of this subpart and the organization of the Committee, the Committee may adopt a marketing policy for the 1980-81 marketing year.

§ 985.51 Recommendations for volume regulation.

(a) If the Committee's marketing policy considerations indicate a need for limiting the quantity of oil of each class marketed, the Committee shall recommend to the Secretary a salable quantity and allotment percentage for the ensuing marketing year. Such recommendations shall be made prior to February 15, or such other date as the Committee, with the approval of the Secretary, may establish.

(b) At any time during the marketing year for which the Secretary, pursuant to § 985.52(a), has established a salable quantity and an allotment percentage for each class of oil, the Committee may recommend to the Secretary that such quantity be increased with an appropriate increase in the allotment percentage. Each such recommendation, together with the Committee's reason for such recommendation, shall be submitted promptly to the Secretary.

(c) As soon as practicable following the effective date of this subpart and the organization of the Committee, the Committee may recommend a salable quantity for the 1980-81 marketing year.

§ 985.52 Issuance of volume regulation.

(a) Whenever the Secretary finds, on the basis of the Committee's recommendation or other information, that limiting the total quantity of a class of oil of any crop that handlers may purchase from or handle on behalf of producers during a marketing year, would tend to effectuate the declared policy of the act, the Secretary shall establish the salable quantity for that oil.

The salable quantity shall be prorated among producers by applying an allotment percentage to each producer's allotment base for that class of oil. The allotment percentage shall be established for each class of oil by dividing the salable quantity by the total

of all producers' allotment bases for the same class of oil.

(b) When an allotment percentage for a class of oil is established for any marketing year, no handler shall purchase from or handle on behalf of producers any oil of that class during such year unless:

(1) It is, at the time of handling, within the unused portion of a producer's annual allotment, and

(2) Such handler notifies the Committee of the handling in such manner as it may prescribe.

§ 985.53 Allotment base.

(a) *Initial issuance.* Each producer desiring an allotment base for one or more classes of oil shall register with the Committee and furnish to it, on forms provided by the Committee, a report of the number of pounds of each class of oil sold during each of the marketing years of 1977, of 1978, and of 1979, which is the representative base period, and the number of pounds of each class of oil currently available for sale and the location of such oil, the name and address of each handler, the quantity of oil by class sold to each handler, the acreage and location of each year's production of spearmint, and any additional information requested by the Committee. A producer who has changed or changes identity from an individual producer to a partnership or corporate producer, or from a partnership to a corporate or individual producer, or from a corporate to a partnership or individual producer, may for the purpose of establishing the initial and subsequent allotment base, register with the Committee as one and the same person.

(b)(1) Initially, the allotment base for each class of oil shall be established by the Committee for each registered producer, at the option of such producer, as follows:

(i) The average annual number of pounds of oil of that class sold during any two marketing years of the representative base period; or

(ii) The average annual number of pounds of that class of oil sold during the representative period plus 33 1/3 percent of oil of that class currently available for sale; or

(iii) The quantity of that class of oil sold during the 1979 marketing year, plus the quantity of that class of oil currently available for sale.

(2) If a producer has spearmint planted by February 27, 1979, but has no sales history during the representative period, the producer's allotment base shall be established by multiplying its acreage to be harvested for spearmint oil by the average amount of oil per acre

sold in the allotment base of other producers in the state or area, whichever is more representative, in which the acreage is located: *Provided*, That, the Committee shall review and adjust these allotment bases in accordance with paragraph (c) of this section on the basis of the producer's sales of spearmint oil.

(c) Periodically, but at least once every five years, the Committee shall review and adjust each producer's allotment base to recognize changes and trends in production and demand. Any such adjustment shall be made in accordance with a formula prescribed by the Committee with the approval of the Secretary.

(d)(1) Beginning with the 1982-83 marketing year, the Committee annually shall make additional allotment bases available for each class of oil in the amount of no more than 1 percent of the total allotment base for that class of oil. Fifty percent of these additional allotment bases shall be made available for new producers and 50 percent made available for existing producers.

(2) Any person may apply for an additional allotment base for any class of oil by filing an application with the Committee on or before December 1 of the marketing year preceding the marketing year for which the additional allotment bases will be made available.

(3) The Committee shall, with the approval of the Secretary, establish rules and regulations to be used for determining the distribution of additional allotment bases. In establishing such rules, the Committee shall take into account, among other things, the minimum economic enterprise requirements for oil production, the applicant's ability to produce oil, the area where the oil will be produced and other economic and marketing factors.

(e) The right of each producer receiving an allotment base, or any legal successor in interest, to retain all or part of an allotment base, shall be dependent on continuance to make a bona fide effort to produce the annual allotment referable thereto and failing to do so, such allotment base shall be reduced by an amount equivalent to such unproduced portions.

§ 985.54 Issuance of annual allotments.

(a) Whenever the Secretary establishes a salable quantity and allotment percentage for a class of oil that may be freely marketed during a marketing year, the Committee shall issue an annual allotment to each producer holding an allotment base for that class of oil. Each producer's annual allotment for a class of oil shall be

determined by multiplying the producer's allotment base for that class of oil by the applicable allotment percentage.

(b) On or before December 1, the Committee shall furnish each registered holder of an allotment base a form for the producer to apply for an annual allotment for the ensuing marketing year. The Committee, with the approval of the Secretary, shall establish rules and regulations prescribing the information to be submitted on this form. The Committee shall notify each producer of the producer's annual allotment for each class of oil within 10 days after the Secretary establishes the salable quantity and allotment percentage.

(c) Through 1981, a handler may acquire oil of a producer's own production to fulfill a written contract entered into by these two persons prior to February 27, 1979. The terms of this contract shall require the producer to deliver to that handler a specified quantity of a class of oil from that producer's production at a specific price from a specified acreage and produced prior to 1982. The quantity of oil acquired by the handler pursuant to that contract during the 1980-81 or 1981-82 marketing year may exceed the producer's annual allotment for the applicable marketing year, but shall be charged against the producer's annual allotment for that year.

§ 985.55 Identification.

(a) Each producer shall, under supervision of the Committee, identify each class of oil within 15 days following its production, or such other period of time as is recommended by the Committee with the approval of the Secretary. Identification of oil shall be accomplished before its delivery either to a handler for handling as salable oil, or to the Committee or its designees for storage as excess oil.

(b) Identification shall indicate whether the oil is salable or excess oil and include the name of the producer, the class of oil, the net weight, the container number and such other information as may be required by the Committee.

(c) Identification shall be accomplished in accordance with rules and regulations established by the Committee with the approval of the Secretary.

(d) No handler shall handle as salable oil, and the Committee shall not receive as excess oil, any oil that has not been identified as provided in this section, and no person shall alter or remove any identification except when incidental to final disposition.

§ 985.56 Excess oil.

Oil of any class in excess of a producer's applicable annual allotment shall be identified as excess oil and shall be disposed of as follows:

(a) Before October 15, or such date as the Committee, with the approval of the Secretary, may establish, a producer, following notification of the Committee, may transfer excess oil to another producer to enable that producer to fill a deficiency in that producer's annual allotment, or

(b) Before November 1, or such other date as the Committee, with the approval of the Secretary, may establish, excess oil, not used to fill another producer's deficiency, shall be delivered to the Committee or its designees for storage. Such oil shall be stored for the account of the producer. All costs of storage including identification and insurance shall be paid by the producer of excess oil. No handler shall handle excess oil and no producer shall deliver excess oil to other than the Committee or its designees.

(c) The Committee, with the approval of the Secretary, may establish such rules and regulations as it deems necessary for the transfer or storage of excess oil.

§ 985.57 Reserve pool requirements.

(a) On November 1, or such other date as the Committee, with the approval of the Secretary may establish, the Committee shall pool identified excess oil as reserve oil in such manner as to accurately account for its receipt, storage, and disposition. The Committee shall store reserve oil for the account of the producer and maintain the identity of the reserve oil by producer's name, the year produced, the class of oil, and such other identification as may be used in normal commercial trade practices. The Committee shall designate a Committee employee as reserve pool manager.

(b) *Disposition.* (1) When, in any marketing year, a producer has produced less than the annual allotment of a class of oil, the producer may, upon notification of the Committee, fill the deficiency with the same class of reserve oil from the producer's prior production.

(2) Prior to March 15 of any year, or such other date as recommended by the Committee and approved by the Secretary, a producer may notify the Committee of a possible deficiency in the producer's ensuing year's production of oil and wishes to use reserve oil from own production to fill the ensuing year's annual allotment. The Committee shall approve the producer's request if the oil

is still available at the time of the request.

(3) Under supervision of the Committee, a producer may exchange salable oil for the same class and quantity of reserve oil from own production so long as the oil is properly identified.

(4) When the Committee finds that additional oil is needed to fill the normal market demand, it shall offer all or a portion of the reserve oil for sale to handlers. Offers to sell, extension of offers and withdrawal of offers shall be subject to disapproval by the Secretary. The Committee may establish rules and regulations governing the offers and sale to handlers.

(5) The Committee may use reserve oil for market development projects approved by the Secretary. Such projects may be conducted by the Committee or in conjunction with or through handlers.

(c) *Pool expenses and proceeds.* Expenses incurred by the Committee in handling and storing reserve oil shall be paid by the equity holders. The proceeds from the disposition of reserve oil shall be distributed, after deduction of any expenses incurred by the Committee in receiving, handling, storing, and disposing thereof, to the equity holders or their successors in interest, on the basis of the number of pounds, class of oil and quality credited to each equity holder's account in the pool. A full accounting to each equity holder, or successor in interest, in each reserve pool shall be made by the Committee annually.

§ 985.58 Exempt oil.

Oil held by a producer or handler on the effective date of this subpart shall not be regulated under this subpart if reported and identified to the Committee not later than 60 days after that date. Any such oil not reported and identified to the Committee shall be subject to all regulation under this subpart.

§ 985.59 Transfers.

(a) Nothing contained in this part shall prevent a producer from transferring the location where that producer's annual allotment is produced to another location except that the producer shall report the transfer to the Committee within 30 days after the transfer.

(b) A producer may transfer all or part of an allotment base to another producer under rules and regulations established by the Committee, with the approval of the Secretary: *Provided*, That the allotment base obtained by transfer from another producer or issued pursuant to § 985.53(d)(1) shall not be transferred for at least 2 years following

transfer or issuance, and that the person receiving the allotment base submit to the Committee, evidence of an ability to produce and sell oil from such allotment base in the first marketing year following the transfer or issuance of the allotment base.

Reports and Records**§ 985.60 Reports.**

(a) *Inventory.* Each handler shall file with the Committee a certified report showing such information as the Committee may specify with respect to any oil which was held by the handler at such times as the Committee may designate.

(b) *Receipts.* Each handler shall, upon request of the Committee, file with the Committee a certified report showing for each lot of oil received, the identifying marks, class of oil, weight, place of production, and the producer's name and address at such times as the Committee may designate.

(c) *Other reports.* Upon the request of the Committee, each handler shall furnish such other information as may be necessary to enable the Committee to exercise its powers and perform its duties under this part.

§ 985.61 Records.

Each handler shall maintain such records pertaining to all oil handled as will substantiate the required reports. All such records shall be maintained for not less than 2 years after the termination of the marketing year to which such records relate.

§ 985.62 Verification of reports and records.

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by producers and handlers, the Secretary and the Committee, through its duly authorized employees, shall have access to any premises where applicable records are maintained, where oil is received or held, and at any time during reasonable business hours, shall be permitted to inspect such handlers' premises, and any and all records of such handlers with respect to matters within the purview of this part.

§ 985.63 Confidential information.

All reports and records furnished or submitted by handlers to, or obtained by the employees of the Committee, which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential and the reports and all information obtained from records shall,

at all times, be kept in the custody and under the control of one or more employees of the Committee who shall disclose such information to no person other than the Secretary.

Miscellaneous Provisions

§ 985.64 Compliance.

No person shall handle oil except in conformity with the provisions of this part.

§ 985.65 Rights of the Secretary.

Members of the Committee and subcommittees, and any agents, employees or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the Committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the Committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 985.66 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 985.67 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States or name any agency or division in the U.S. Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 985.68 Personal liability.

No member or alternative member of the Committee and no employee or agent of the Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 985.69 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 985.70 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 985.71 Effective time.

The provisions of this subpart, and of any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated or suspended in one of the ways specified in § 985.72.

§ 985.72 Termination.

(a) *Failure to effectuate.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this part upon a finding that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart at the end of any marketing year upon a finding that such termination is favored by a majority of the producers who, during the preceding marketing year, produced for market more than 50 percent of the volume of oil so produced: *Provided*, That termination shall be effective only if announced before May 31 of the then current marketing year.

(c) *Termination of act.* The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 985.73 Proceedings after termination.

Upon termination of the provisions of this part, the Committee shall, for the purpose of liquidating the affairs of the Committee, continue as trustees of all the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this

section, shall be subject to the same obligation imposed upon the Committee and upon trustees.

§ 985.74 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued hereunder, or (b) release or extinguish any violation of this subpart or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: April 14, 1980.

Signed at Washington D.C. on April 8, 1980.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-11108 Filed 4-11-80; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, 121, 135, and 139

[Docket No. 18315; Amdt. Nos. 91-159A and 135-2A; SFAR No. 41A]

Increase in Approved Takeoff Weights and Passenger Seating Capacities; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes editorial corrections to Special Federal Aviation Regulation (SFAR) 41 adopted on September 7, 1979. The SFAR prescribes additional airworthiness requirements applicable to certain existing multiengine small airplanes to allow an increase in approved takeoff weights and passenger seating capacities.

EFFECTIVE DATE: April 14, 1980.

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Safety Regulations Staff, AVS-24, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591, Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: This amendment of SFAR 41 (44 FR 53723,