conditions to determine whether the marketing policy considerations indicated a need for limiting the quantity of spearmint oil in a particular class.

Finally, the SBA questioned why the proposed rule did not contain reference to the number of new producers who will be allocated base of sufficient quantity so as to ensure their entry into the industry next season. The procedures for determining how new producers are selected and how additional allotment bases are distributed is provided for in §§ 985.53 and 985.153 of the order and its regulations and is separate from this action. Under these provisions, an additional ½ percent of the current total allotment base for each class of spearmint oil is annually allocated to new producers. For the 1997–98 marketing year, three new Class 1 producers were issued an equal proportion of the Scotch spearmint oil additional allotment base, and four new Class 3 producers were issued an equal proportion of the Native spearmint oil additional allotment base. This increased the total number of producers in the regulated production area by nearly three percent. As provided for in § 985.153, the Committee determined that the levels of issuance for the 1997–98 marketing year, approximately 3,000 pounds per new producer for Scotch spearmint oil and 2,500 pounds per new producer for Native spearmint oil, are at levels sufficient for a minimum economic enterprise to produce each class of spearmint oil.

Accordingly, based on the comment received, no changes are made to the rule as proposed.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declare policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers need to be able to ship their spearmint oil for the 1997–98 season which began June 1, 1997. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

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

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new section 985.216 is added to read as follows:

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

§ 985.216 Salable quantities and allotment percentages—1997–98 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1997, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 996,522 pounds and an allotment percentage of 55 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,125,351 pounds and an allotment percentage of 56 percent.

Dated: July 2, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–17867 Filed 7–8–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1006

[DA–97–03]

Milk in the Upper Florida Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: This document suspends indefinitely certain provisions of the Upper Florida Federal milk marketing order. The suspension removes the standard that a cooperative association operating a plant have at least 50 percent of the producer milk of its members received at pool distributing plants to retain its pool plant status. Florida Dairy Farmers Association, a cooperative association representing producers whose milk is pooled on the 3 Florida orders, requested the suspension. The suspension is necessary to prevent the uneconomical and inefficient movements of milk.

EFFECTIVE DATE: September 1, 1997.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued April 21, 1997; published April 24, 1997 (62 FR 19939).

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. 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.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds

per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of January 1997, the milk of 80 producers was pooled on the Upper Florida Federal milk order. Of these producers, 23 were below the 326,000-pound production guideline and are considered to be small businesses. A majority of these producers produce more than 100,000 pounds per month. Of the total number of producers whose milk was pooled during that month, all were members of Florida Dairy Farmers Association.

In January 1997, there were 2 handlers operating 2 plants under the Upper Florida order. One of these would be considered a small business.

This rule suspends indefinitely part of a provision of the Upper Florida marketing order which specifies that a cooperative association have at least 50 percent of its members' producer milk received at pool distributing plants to retain its pool plant status. The suspension promotes orderly marketing of milk by permitting a plant operated by a cooperative association to qualify as a pool plant with minimal deliveries of milk by the cooperative to pool distributing plants in the market. This facilitates the shipment of surplus milk to the cooperative's plant, where it will then be concentrated and shipped to distant plants for its ultimate disposition. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Preliminary Statement

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Upper Florida marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 24, 1997 (62 FR 19939) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. No comments were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that the following provisions of the order do not tend to effectuate the declared policy of the Act:

(1) In § 1006.7, the introductory text of paragraph (c), the words ''50 percent or more of the''; and

(2) In § 1006.7, paragraph (c)(2).

Statement of Consideration

This rule suspends indefinitely part of a provision of the Upper Florida marketing order which specifies that a cooperative association have at least 50 percent of its members' producer milk received at pool distributing plants to retain its pool plant status.

The suspension was requested by Florida Dairy Farmers Association (FDFA), a cooperative association representing producers whose milk is pooled on the 3 Florida orders. FDFA contends that the suspension of the requirement would allow the continued pooling of the cooperative's Jacksonville, Florida, plant under the Upper Florida order irrespective of the quantity of producer milk received at pool distributing plants. With assurance of pooling, surplus producer milk from the Tampa Bay and Southeastern Florida marketing areas could be diverted to the Jacksonville plant for processing into concentrated milk and shipment to manufacturing plants. Also, in order to prevent the pooling of the Jacksonville plant under another Federal order, FDFA requested the suspension of § 1006.7(c)(2), which would yield regulation of the plant to another Federal order if the plant met the other order's supply plant shipping requirements. With this paragraph suspended, however, the plant would remain regulated under the Upper Florida order even if it were to qualify as a pool plant under another order.

In order to maintain the pooling of the cooperative association's manufacturing plant, a suspension of the pooling standard specifying that a cooperative association have 50 percent of the producer milk of its members received at pool distributing plants is reasonable. The suspension is found to be necessary for the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to assure that producers whose milk has long been associated with the 3 Florida marketing areas will continue to benefit from pooling and pricing under the order.

List of Subjects in 7 CFR Part 1006

Milk marketing orders.

For the reasons set forth in the preamble 7 CFR Part 1006 is amended as follows:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. The authority citation for 7 CFR Part 1006 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1006.7 [Suspended in part]

2. In § 1006.7, the words ''50 percent or more of the'' in the introductory text of paragraph (c) and paragraph (c)(2) are suspended indefinitely.

Dated: July 2, 1997.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 97–17868 Filed 7–8–97; 8:45 am]

BILLING CODE 3410–02–P

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1381

Handler Petition Procedure; Interim Procedural Rule; Correction

AGENCY: Northeast Dairy Compact Commission.

ACTION: Correction to interim procedural rule.

SUMMARY: This document contains corrections to the interim procedural rule published by the Northeast Dairy Compact Commission on Monday June 30, 1997, 62 FR 35065. The interim procedural rule established a procedure for milk handlers to petition the Commission for administrative relief from operation of any regulatory order of the Commission pursuant to Article VI, section 16(b) of the Compact.

DATES: Effective date: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, at the above address or by telephone at (802) 229–1941 or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION: As published the interim procedural rule contains language which may prove to be misleading or require clarification. Accordingly, the interim procedural rule is corrected as follows:

Section 1381.3(h) on page 35066, first column, is corrected to read as follows:

§ 1381.3 Contents of petitition.

* * * * *

(h) Petitioner's prayer for relief may include a request that payments due or payable during the pendency of the