

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1240

[Document Number AMS-FV-09-0006; FV-09-701]

#### Honey Research, Promotion, and Consumer Information Order; Termination

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

**ACTION:** Final rule; termination order.

**SUMMARY:** This final rule terminates the Honey Research, Promotion, and Consumer Information Order (Honey Order) and its rules and regulations in their entirety. The Department previously proposed termination of the Honey Order because of the duplicative nature of the Honey Order with the new honey packers and importers program. This action is necessary because the results of a referendum conducted among honey first handlers and importers between April 2 and April 16, 2008, favored implementation of a new honey packers and importers program, and that program is now in effect. Therefore, termination of the Honey Order is appropriate.

**DATES:** *Effective Date:* April 20, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kathie Notoro, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, Room 0632-S, 1400 Independence Ave., SW., Washington, DC 20250-0244; telephone (202) 720-9915 or (888) 720-9917 (toll free), Fax: (202) 205-2800 or e-mail [kathie.notoro@ams.usda.gov](mailto:kathie.notoro@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under the Honey Research, Promotion and Consumer Information Act [7 U.S.C. 4601-4613] (Act).

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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

This final rule terminates the Honey Order and its rules and regulations. The Act, which became effective in October 1984, authorized the creation of a program of promotion and information for honey and honey products. The National Honey Board was appointed to administer the Honey Order under the Department's supervision. The Honey Order covered an estimated 2,000 producers and 659 importers of honey and honey products.

The National Honey Packers and Dealers Association submitted a proposal for a Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Packers Order) in 2006.

A proposed Packers Order was published in the **Federal Register** on June 4, 2007 [72 FR 30924], with a 60-day request for comment period which ended on August 3, 2007. That rule also proposed termination of the Honey Order and regulations in 7 CFR part 1240 if the Packers Order was implemented. Honey associations and related honey industry media received news releases and other information regarding the proposed implementation of the Packers Order and termination of the Honey Order.

After reviewing all timely comments received, a second proposed rule and referendum order was published in the **Federal Register** on March 3, 2008 [73 FR 11470]. Also, a final rule concerning referendum procedures was published in the **Federal Register** the same day.

First handlers and importers who handled 250,000 pounds or more of honey or honey products, during the period from January 1, 2007, through December 31, 2007, were eligible to vote in the April 2-16, 2008, referendum to determine if they favored implementation of the Packers Order. Seventy-eight percent of those voting in

the referendum, covered under the Packers Order, representing ninety-two percent of the volume who voted in the referendum, approved the new program. With the implementation of the Packers Order, the Honey Order would be terminated as soon as practicable.

In accordance with section 1240.63, of the Honey Order, the Board recommended to the Secretary five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. These trustees were designated by the Secretary and became responsible for all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of the final audit. Further, the Department published a suspension of the collection of assessments under the Honey Order and a final rule establishing the Packers Order in the **Federal Register** on May 21, 2008 [73 FR 29390]. The other provisions of the Honey Order remained in effect in order to facilitate the five trustees' ability to liquidate the assets and terminate the Honey program after a final audit was conducted. A final audit was conducted on January 14, 2009.

Therefore, this final rule terminates all provisions of the Honey Order and its rules and regulations.

#### Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) is required to examine the impact of the rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

Under the Honey Order, approximately 2,000 producers and 659 importers of honey and honey products paid assessments. Approximately 45 handlers were also covered for recordkeeping and reporting requirements. The Small Business Administration [13 CFR 121.201] defines small agricultural producers as those having annual receipts of \$750,000 or less annually and small agricultural service firms as those having annual receipts of \$7 million or less. Using these criteria under the Honey Order, most producers, first handlers, cooperative organizations and

other nominating organizations would be considered small businesses, while most importers and exporters would not. Cooperative and other nominating organizations would be expected to generally reflect the size of the entities that they represent.

Taking into account the duplicative nature of the new Packers Order with the Honey Order, the Department previously suspended assessment collection under the Honey Order on May 21, 2008. This action will now terminate all of the provisions of the Honey Order and regulations issued thereunder and remove the regulatory impact on all entities subject to the requirements of the Honey Order and its regulations.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements under the Honey Order were approved by the Office of Management and Budget (OMB) and assigned OMB numbers 0581-0093 and 0581-0001. When assessment collections were terminated on May 21, 2008, these information collection requirements were also suspended. Now that the Honey Order is being terminated, these requirements also are eliminated. The costs and burden on the industry associated with these requirements are also eliminated.

#### Termination Order

Taking into account the duplicative nature of the Packers Order with the Honey Order, it is found that the current Honey Order issued under the Honey Research, Promotion and Consumer Information Act does not tend to effectuate the purposes of the Act. It is therefore ordered, that pursuant to section 13 of the Act, the Honey Order, and its rules and regulations [7 CFR part 1240] are hereby terminated.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The assets of the Honey Board have been liquidated, and (2) a final audit of the Board's books has been conducted.

#### List of Subjects in 7 CFR Part 1240

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Honey promotion, Reporting and recordkeeping requirements.

#### PART 1240—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 4601-4613, 7 CFR part 1240 is removed.

Dated: April 13, 2009.

**Robert C. Keeney,**

*Acting Associate Administrator, Agricultural Marketing Service.*

[FR Doc. E9-8852 Filed 4-16-09; 8:45 am]

**BILLING CODE**

#### FEDERAL RESERVE SYSTEM

##### 12 CFR Part 230

[Regulation DD; Docket No. R-1315]

#### Truth in Savings; Correction

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Final rule; technical correction.

**SUMMARY:** On January 29, 2009, the Board published final rules amending Regulation DD, which implements the Truth in Savings Act, and the official staff commentary to the regulation. The final rule, among other things, requires all depository institutions to disclose aggregate overdraft fees on periodic statements, and not solely institutions that promote the payment of overdrafts. However, the document published in the **Federal Register** on January 29, 2009 contains a technical error in the formatting of the sample form illustrating how institutions may comply with this requirement. To correct this error, this document republishes the appropriate sample form.

**DATES:** This correction is effective January 1, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Dana E. Miller, Attorney, Vivian W. Wong, Senior Attorney, or Ky Tran-Trong, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, at (202) 452-3667 or (202) 452-2412. For users of a Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:** On January 29, 2009, the Board published final rules amending Regulation DD, which implements the Truth in Savings Act, and the official staff commentary to the regulation. The final rule, among other things, requires all depository institutions to disclose aggregate overdraft fees on periodic statements,

and not solely institutions that promote the payment of overdrafts. However, the document published in the **Federal Register** on January 29, 2009 contains a technical error in the formatting of the sample form illustrating how institutions may comply with this requirement. To correct this error, this document republishes the appropriate sample form.

#### Basis for the Corrections

The Board is issuing this technical correction as a final rule that will be effective upon publication in the **Federal Register**. The Administrative Procedure Act (the Act) provides that notice and comment procedures do not apply if the agency for good cause finds notice to be "impracticable, unnecessary, or contrary to the public interest." The Act also provides that notice and comment procedures do not apply for interpretive rules. In addition, a rule may be made effective less than thirty days from publication when an agency finds good cause for such action. 5 U.S.C. 553(b)(A)-(B) and (d)(3).

The Board finds that the Act does not require notice of a proposed rulemaking before the final publication of the corrected sample form. There is good cause to publish the formatting requirements without notice and comment because these procedures are unnecessary. The formatting correction to the sample form is a non-substantive change to the form. The republication merely corrects an error that occurred in the printing of the sample form when it was originally published. For this same reason, the Board finds that there is good cause for the rule to take effect upon publication.

In addition, the correction may be viewed as interpretative in that the form only indicates how the rule should apply, and, therefore, a notice of proposed rulemaking is not required.

#### Paperwork Reduction Act

This technical correction contains no collection of information pursuant to the Paperwork Reduction Act.

■ In the final rule FR Doc. E8-31183 published in the **Federal Register** on January 29, 2009 (74 FR 5584) make the following correction:

#### Appendix B to Part 230—[Corrected]

■ 1. On page 5593, in the third column, Form B-10. is corrected to read as follows:

#### Appendix B to Part 230—Model Clauses and Sample Forms

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