

*moa/small-businesses*. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 985

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

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

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

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

**Authority:** 7 U.S.C. 601–674.

■ 2. Revise § 985.141 to read as follows:

##### § 985.141 Assessment rate.

On and after June 1, 2020, an assessment rate of \$0.14 per pound is established for Far West spearmint oil. Unexpended funds may be carried over as a reserve.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2020–13614 Filed 7–9–20; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 9

[Docket ID: FSA–2020–0004]

RIN 0503–AA65

#### Coronavirus Food Assistance Program; Correction

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Correcting amendments.

**SUMMARY:** The Secretary of Agriculture implemented the Coronavirus Food Assistance Program (CFAP), which provides assistance to agricultural producers impacted by the effects of the COVID–19 outbreak, through a final rule published in the **Federal Register** on May 21, 2020. We realized that there were errors in some of the payment rates

in that final rule. In addition, we were able to reevaluate the payment rates for certain specialty crops based on data that was available from industry in response to the CFAP notice of funding availability, which was published in the **Federal Register** on May 22, 2020. This document corrects payment rates and categories for those specialty crops that were published in the final rule.

**DATES:** *Effective Date:* July 10, 2020.

#### FOR FURTHER INFORMATION CONTACT:

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Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

**SUPPLEMENTARY INFORMATION:** This document corrects the CFAP regulations in 7 CFR part 9, which were implemented in the final rule that was published in the **Federal Register** on May 21, 2020 (85 FR 30825–30835). This is the second set of corrections. The first set of corrections was published in the **Federal Register** on June 12, 2020 (85 FR 35799–35800). This document augments those corrections.

In response to the notice of funding availability published in the **Federal Register** on May 22, 2020 (85 FR 31062–31065), a few commenters stated that USDA had miscalculated price decreases for certain commodities. USDA reviewed the data for all specialty crop commodities and found some inconsistencies in data points.

Accordingly, USDA is correcting the errors to make apples, blueberries, garlic, potatoes, raspberries, tangerines, and taro eligible for payment under 7 CFR 9.5(b)(1), and adding CARES Act payment rates for sales losses for those crops to Table 1 to § 9.5(h).

USDA found that peaches and rhubarb no longer qualify for payment based on sales losses under § 9.5(b)(1). Peaches showed a 3 percent sales price decrease and rhubarb showed an increase in sales price of 28 percent when corrections to the data sets were made. Therefore, we are removing the CARES Act payment rates for sales losses for these two crops from Table 1 to § 9.5(h).

USDA took into account data submitted by the apple industry to determine price eligibility under § 9.5(b)(1) for apples. The price data sets came from actual sales of 43.8 million bushels of apples that average 42 pounds. This quantity is more than half of all the apples marketed during the study period. The data came from surveys of marketers from the four largest apple producing states—

Washington, New York, Michigan and Pennsylvania. Those four states' combined production is approximately 94 percent of the U.S. total. The Washington State Tree Fruit Association reflects approximately 85 percent of Washington apple sales. Washington state apple production comprises about two-thirds of the U.S. total, but an even higher share of total U.S. sales during the study period. Data submitted showed an industry average loss of 10.9 percent. Accordingly, USDA is adding apple eligibility for payment losses.

USDA is also adding eligibility for certain potatoes. Original prices used by USDA for the May 12, 2020, rule included all fresh potatoes and did not include prices for processing or seed potatoes as those are not obtained at shipping points or terminal markets. The potato industry submitted price data from industry surveys and reports. The industry data show that seed potatoes had a 15 percent price decline and fresh food retail and service potatoes had a 6.7 percent price decline over the rule stated period. However, the industry reported fresh price only for russet potatoes.

Another potato commenter used data from one potato producing state to determine shipping point price changes for non-organic russet potatoes in 50-lb units. Terminal market prices were also reported. A notable difference between the USDA payment calculations is that prices generated by USDA included prices from all states.

The potato industry also requested payments for seed potatoes. Seed potatoes can be any type of potato and can be diverted to the fresh market if needed. USDA agrees. Accordingly, seed potatoes is now a category of potatoes eligible for payment.

After reviewing all the data submitted by the potato industry USDA agrees that the potato category be corrected to be divided as follows:

- Potatoes fresh—Russets;
- Potatoes fresh—other;
- Potatoes—processing; and
- Potatoes—seed.

Payment rates for these categories are shown on the table below.

As discussed above, USDA is correcting the payment rates in Table 1 to § 9.5(h) for apples, artichokes, asparagus, blueberries, cantaloupes, cucumbers, garlic, kiwifruit, mushrooms, papaya, peaches, potatoes (separated into categories for fresh—Russets, fresh—other, processing, and seed), raspberries, rhubarb, tangerines, and taro.

The correction and addition in the payment rates and the resulting changes in the eligibility for specific types of

payments per commodity will not change CFAP costs.

**List of Subjects in 7 CFR Part 9**

Agricultural commodities, Agriculture, Disaster assistance, Indemnity payments.

Accordingly, 7 CFR part 9 is corrected by making the following correcting amendments:

**PART 9—CORONAVIRUS FOOD ASSISTANCE PROGRAM**

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c; and Division B, Title I, Pub. L. 116–136.

■ 2. In § 9.5, amend Table 1 to paragraph (h), as follows:

■ a. Revise the entries for “Apples”, “Artichokes”, “Asparagus”, “Blueberries”, “Cantaloupes”, “Cucumbers”, “Garlic”, “Kiwifruit”, “Mushrooms”, “Papaya”, “Peaches”

■ b. Remove the entry for “Potatoes”;  
 ■ c. Add the entries for “Potatoes Fresh—Other”, “Potatoes Fresh—Russets”, “Potatoes—Processing”, and “Potatoes—seed” in alphabetical order; and  
 ■ d. Revise the entries for “Raspberries”, “Rhubarb”, “Tangerines”, and “Taro”.

The revisions and additions read as follows:

**§ 9.5 Calculation of payments.**

\* \* \* \* \*  
 (h) \* \* \*

**TABLE 1 TO PARAGRAPH (h)—PAYMENT RATES FOR SPECIALTY CROPS**  
 [Including, but not limited to, the listed commodities]

Commodity	CARES Act payment rate for sales losses (\$/lb)	CARES Act payment rate for product that left the farm but spoiled or is unpaid due to loss of marketing channel (\$/lb)	CCC Payment rate (\$/lb)
Apples	\$0.05	\$0.22	\$0.04
Artichokes	0.88	0.69	0.13
Asparagus		0.25	0.05
Blueberries	0.20	0.93	0.18
Cantaloupes		0.14	0.03
Cucumbers	0.18	0.17	0.03
Garlic	0.17	1.10	0.22
Kiwifruit		0.44	0.09
Mushrooms		0.58	0.11
Papaya		0.31	0.06
Peaches		0.30	0.06
Potatoes fresh—other	0.01	0.04	0.01
Potatoes fresh—Russets	0.07	0.09	0.02
Potatoes—processing	0.02	0.03	0.01
Potatoes—seed	0.02	0.04	0.01
Raspberries	0.44	1.69	0.33
Rhubarb		0.76	0.15
Tangerines	0.05	0.25	0.05
Taro	0.12	0.29	0.06

\* \* \* \* \*

**Stephen L. Censky,**

*Vice Chairman, Commodity Credit Corporation, and Deputy Secretary, U.S. Department of Agriculture.*

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Chapter X

#### Ratification of Bureau Actions

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Ratification.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau), through its Director, is ratifying a number of previous actions by the Bureau. This includes the large majority of the Bureau's existing regulations, as well as certain other actions. This ratification provides the public with certainty, by resolving any potential defect in the validity of these actions arising from Article II of the United States Constitution.

**DATES:** This ratification is issued on July 10, 2020 and relates back to the original date of each action that it ratifies.

**FOR FURTHER INFORMATION CONTACT:** Christopher Shelton, Counsel, Legal Division, at 202-435-7700. If you require this document in an alternative electronic format, please contact *CFPB\_Accessibility@cfpb.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Bureau was established by the Consumer Financial Protection Act of 2010 (CFPA).<sup>1</sup> Section 1011(c)(3) of the CFPA provided that the President may remove the Director of the Bureau only for inefficiency, neglect of duty, or malfeasance in office.<sup>2</sup> The Bureau's first Director was appointed on January 4, 2012.<sup>3</sup>

On June 29, 2020, the Supreme Court held in *Seila Law LLC v. CFPB* that the CFPA's removal provision violates the separation of powers.<sup>4</sup> The Court further

held that "the CFPB Director's removal protection is severable from the other statutory provisions bearing on the CFPB's authority. The agency may therefore continue to operate, but its Director, in light of our decision, must be removable by the President at will."<sup>5</sup> "The only constitutional defect we have identified in the CFPB's structure is the Director's insulation from removal."<sup>6</sup>

##### II. Overview of This Ratification

To resolve any possible uncertainty the Bureau, through its Director, has decided to ratify a number of official actions from January 4, 2012 to June 30, 2020 (Ratified Actions).<sup>7</sup> Under established case law, any agency may, through ratification, "purge[] any residual taint or prejudice left over from" a potential defect in a prior governmental action.<sup>8</sup> The Bureau is issuing this ratification out of an abundance of caution, and this ratification is not a statement that the Ratified Actions would have been invalid absent this ratification.

Part III of this document sets forth the ratification, while part IV discusses the ratification, part V discusses certain actions that are outside the scope of the ratification, and finally part VI addresses some additional administrative law matters.

##### III. Ratification

The Bureau, through its Director, hereby affirms and ratifies the following actions from January 4, 2012 to June 30, 2020 (collectively, the Ratified Actions):

1. Each document published by the Bureau in the "Rules and Regulations" category of the **Federal Register**,<sup>9</sup> except the July 2017 rule titled "Arbitration Agreements"<sup>10</sup> and the November 2017 rule titled "Payday, Vehicle, and Certain High-Cost Installment Loans."<sup>11</sup> Aside from those two exceptions, this includes but is not limited to all amendments to the Bureau's regulations in 12 CFR chapter X, as well as the Bureau's actions in issuing joint regulations with other agencies.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.* at 32.

<sup>7</sup> Some of the Ratified Actions were previously ratified by the Bureau in August 2013. *See supra* note 3. The Bureau has used the end date of June 30, 2020, in an abundance of caution in order to include 85 FR 39055 (June 30, 2020), which the Bureau released on its website on June 23, 2020.

<sup>8</sup> *Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 920 F.3d 1, 13 (D.C. Cir. 2019).

<sup>9</sup> The Office of the Federal Register places each document published in the **Federal Register** in one of four categories: "Presidential Documents," "Rules and Regulations," "Proposed Rules," or "Notices." *See* 1 CFR 5.9.

<sup>10</sup> 82 FR 33210 (July 19, 2017).

<sup>11</sup> 82 FR 54472 (Nov. 17, 2017).

2. Each consumer information publication issued by the Bureau under Regulation X, 12 CFR part 1024, and Regulation Z, 12 CFR part 1026.<sup>12</sup>

3. Each notice titled "Fair Credit Reporting Act Disclosures."<sup>13</sup>

4. The official approval titled "Final Redesigned Uniform Residential Loan Application Status Under Regulation B."<sup>14</sup>

5. The preemption determination titled "Electronic Fund Transfers; Determination of Effect on State Laws (Maine and Tennessee)."<sup>15</sup>

6. The Bureau's concurrences with respect to the April 2018 and October 2019 rules by the three Federal banking agencies and the July 2019 and April 2020 rules by the National Credit Union Administration, each titled "Real Estate Appraisals."<sup>16</sup>

In the event that the Bureau's ratifying of any individual Ratified Action or the application of this ratification to any person or circumstance is held to be invalid for any reason, the remainder of this ratification is severable and shall continue in force.<sup>17</sup>

##### IV. Discussion of the Ratification

The Bureau's Director is familiar with the Ratified Actions and has also conducted a further evaluation of them for purposes of this ratification. Accordingly, the Director is making an informed decision to ratify them.

Based on the Director's evaluation of the Ratified Actions, it is the Director's considered judgment that they should be ratified. This decision is reinforced by the fact that, based on the Bureau's experience as a regulator of markets for consumer financial products and services, the Director is acutely aware that many of the Ratified Actions have engendered significant reliance interests. Consumers, the business community, State and local governments, and other individuals and entities have all relied upon the validity of the Ratified Actions in organizing their activities. This ratification secures those existing reliance interests by avoiding doubt as to the validity of the

<sup>12</sup> These consumer information publications are reflected in the notices of availability at 79 FR 1836 (Jan. 10, 2014); 80 FR 17414 (Apr. 1, 2015); 80 FR 57154 (Sept. 22, 2015); 85 FR 35292 (June 9, 2020).

<sup>13</sup> 77 FR 20011 (Apr. 3, 2012); 77 FR 74831 (Dec. 18, 2012); 78 FR 79410 (Dec. 30, 2013); 79 FR 74068 (Dec. 15, 2014); 80 FR 72711 (Nov. 20, 2015); 81 FR 81745 (Nov. 18, 2016); 82 FR 53481 (Nov. 16, 2017).

<sup>14</sup> 82 FR 55810 (Nov. 24, 2017).

<sup>15</sup> 78 FR 24386 (Apr. 25, 2013).

<sup>16</sup> *See* 83 FR 15019 (Apr. 9, 2018); 84 FR 35525 (July 24, 2019); 84 FR 53579 (Oct. 8, 2019); 85 FR 23909 (Apr. 30, 2020).

<sup>17</sup> Additionally, this ratification does not waive any statute of limitations or other restriction on challenges to the Ratified Actions.

<sup>1</sup> Public Law 111-203, title X, 124 Stat. 1376, 1955-2113 (2010).

<sup>2</sup> 12 U.S.C. 5491(c)(3).

<sup>3</sup> From January 4, 2012 until July 17, 2013, Director Richard Cordray served as a recess appointee, but his recess appointment was not constitutionally proper in light of the Supreme Court's subsequent decision in *NLRB v. Noel Canning*, 573 U.S. 513 (2014). *See CFPB v. Gordon*, 819 F.3d 1179, 1185-86 (9th Cir. 2016) (upholding the Bureau's ratification of actions from that period, 78 FR 53734 (Aug. 30, 2013)).

<sup>4</sup> 591 U.S.—(2020) (slip op.).