

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Doc. No. AMS-FV-13-0088; FV14-985-2 PR]

#### Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of Administrative Rules and Regulations Governing Issuance of Additional Allotment Base

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule invites comments on revisions to the procedure currently prescribed for issuing additional allotment base for Class 1 (Scotch) and Class 3 (Native) spearmint oil to new and existing producers under the Far West spearmint oil marketing order (order). The order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). This action would: Reduce the number of new producers that are issued additional allotment bases each year from three to two, for each class of oil; temporarily change the method by which additional allotment base is allocated to existing producers to take into account small production operations; and amend the requirements for eligibility, retention, and transfer of additional allotment base issued to new and existing producers. Revising the procedure for issuing additional allotment base would help ensure that new and existing spearmint oil producers have sufficient allotment base to be economically viable in the future.

**DATES:** Comments must be received by May 21, 2014.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket

Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or Internet: <http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:**

Manuel Michel or Gary D. Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or Email: [Manuel.Michel@ams.usda.gov](mailto:Manuel.Michel@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before

parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on revisions to the procedure currently prescribed for issuing additional allotment base for Class 1 (Scotch) and Class 3 (Native) spearmint oil to new and existing producers under the order's volume control provisions. This proposal would: (1) Reduce the number of allocations of additional allotment base issued to new producers each year from three to two, for each class of oil; (2) temporarily change the method by which additional allotment base is issued to existing producers in order to take into account producers whose total allotment base is below the size of the minimum economic enterprise (MEE) required to produce each class of spearmint oil; (3) provide that additional allotment base issued to existing producers under the revised procedure could not be used to replace allotment base that has been previously transferred away; and (4) provide that additional allotment base issued under the revised procedure could not be transferred to another producer for at least five years following issuance. This action was recommended unanimously by the Committee at a meeting on November 6, 2013.

Under the order, volume control measures are authorized to regulate the marketing of spearmint oil. Regulation is currently effectuated through the issuance of allotment bases to producers, the establishment of annual salable quantities and allotment percentages, and the reserve pooling of excess production. Allotment base is each producer's quantified share of the spearmint oil market based on a

statistical representation of past spearmint oil production, with accommodation for reasonable and normal adjustments to such base. The order's provisions allow for the regulation of spearmint oil volume available to the market. The objective of regulation is to establish orderly marketing conditions for spearmint oil and to ensure that there is sufficient spearmint oil supply available to meet market requirements. Since the program's inception, volume regulation has been instrumental in promoting market and price stability within the industry.

The order contains provisions to ensure that there is orderly market expansion and that new producers are able to produce and market spearmint oil. Section 985.53(d)(1) of the order requires the Committee to annually 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 to new producers and 50 percent made available to existing producers.

Section 985.53(d)(3) requires the Committee, with the approval of the Secretary, to establish rules and regulations to be used for determining the distribution of additional allotment bases. In 1982, these rules and regulations were established and have been subsequently revised on several occasions, most recently in 2003. Each time a revision is made, the Committee considers several important factors which include: the size of the MEE required for spearmint oil production, the applicant's ability to produce spearmint oil, the area where the spearmint oil will be produced, and other economic and marketing factors that have a direct impact on spearmint oil producers. The Committee reviews regularly, and updates as needed, the size of the MEE required for spearmint oil production. Under the order, MEE is the minimum size of production operation that the Committee has determined to be economically viable for each class of spearmint oil. Between 1982 and 1997, the Committee revised the MEE for Scotch spearmint oil production three times and Native spearmint oil production four times. As a result, the MEE increased from 1,200 pounds to 3,000 pounds for Scotch spearmint oil, and from 1,800 pounds to 3,400 pounds for Native spearmint oil.

Section 985.153(c)(1) of the order's administrative rules and regulations prescribes the method by which additional allotment base is issued to new producers. In addition,

§ 985.153(c)(2) prescribes the procedure by which additional allotment base is issued to existing producers. Lastly, § 985.153(d) specifies certain requirements for spearmint oil producers who are issued additional allotment base pursuant to § 985.153(c)(1) and (c)(2).

The Committee met on November 6, 2013, to consider the current procedures for issuing additional allotment base to new and existing producers and to make recommendations regarding the revision of those procedures. As required by § 985.153(c)(1)(ii), the Committee first considered the size of the MEE required to produce each class of spearmint oil. The Committee determined that the MEE levels for both classes of spearmint oil were no longer representative and needed to be revised. The Committee recognized that, as production and cultural practices for spearmint oil have continued to change and production costs per acre have increased, the Committee's previously established MEE levels are too low and should be revised. As such, the Committee concluded that the MEE thresholds had increased to 5,121 pounds for Scotch spearmint oil and 5,812 pounds for Native spearmint oil.

As a result of the Committee's determination that the MEE thresholds have increased, and given the quantity of additional allotment base available to new producers each year ( $\frac{1}{2}$  of 1 percent of the total allotment base for each class of oil), the additional allotment base issued each year is only enough for two new producers, instead of three, for each class of oil.

The Committee's initial calculation is that the total allotment base for Scotch spearmint oil during the 2014–2015 marketing year will be approximately 2,089,146 pounds. One half of one percent of this amount would be 10,445 pounds. With the MEE for Scotch spearmint oil determined to be 5,121 pounds, issuing allotment base to two new producers would require 10,242 pounds, which is within the amount of additional allotment base that would be available for the year.

Likewise, the Committee's initial calculation is that the total allotment base for Native spearmint oil during the 2014–2015 marketing year will be approximately 2,371,350 pounds. One half of one percent of this amount would be 11,856 pounds. With the MEE for Native spearmint oil determined to be 5,812 pounds, issuing allotment base to two new producers would require 11,624 pounds, which is within the amount of additional allotment base that would be available for the year.

Based on the above information, the Committee unanimously recommended reducing the number of new producers that would be issued additional allotment base each year from three to two for each class of oil. The Committee also recommended that the additional allotment base issued to new producers not be transferrable for at least five years following issuance. The current retention period prior to transferability is two years. New producers issued additional allotment base under this proposal would continue to be required to submit evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base.

The Committee also gave consideration to existing producers with regards to the size of the MEE required to produce spearmint oil and the allocation of additional allotment base. After analyzing the Committee's records, the Committee found that some existing producers hold allotment bases that are below the revised MEE levels. As a result, the Committee unanimously recommended that the additional allotment base that is made available each year to existing producers be temporarily allocated first to those eligible producers who hold allotment bases that are less than the MEE threshold in order to bring their total up to that level.

Under the proposal, existing Scotch spearmint oil producers whose allotment bases are less than 5,121 pounds as of October 17, 2012, who apply and who have the ability to produce additional quantities of spearmint oil, would be issued sufficient additional allotment base to bring them up to the MEE threshold over a three-year period extending through the 2016–2017 marketing year. In addition, existing Native spearmint oil producers who hold allotment bases of less than 5,812 pounds as of October 17, 2012, who apply and who have the ability to produce additional quantities of spearmint oil, would be issued sufficient additional allotment base to bring them up to the MEE threshold over a four-year period extending through the 2017–2018 marketing year.

The Committee estimates there would be 21 producers of Scotch spearmint oil and 30 producers of Native spearmint oil eligible for additional allotment base under the proposal. It is expected that eligible existing producers of both Scotch and Native spearmint oil would apply for the full amount of additional allotment base made available to them. If there is any unallocated additional allotment base remaining for either Scotch spearmint oil during the 2016–

2017 marketing year, or Native spearmint oil during the 2017–2018 marketing year, such amount would be distributed on a prorated basis among all existing producers of each respective class of spearmint oil.

The Committee also recommended that additional allotment base issued to producers under the proposed revised procedure should not be used to replace allotment base that has been previously transferred away by that producer and that additional allotment base issued under the revised procedure not be transferrable for at least five years following issuance.

Since the establishment of the order, one of the Committee's primary objectives has been to help ensure that all spearmint oil producers are economically viable, as evidenced by holding allotment bases that are above the minimum economic threshold required for spearmint oil production. The Committee has worked to meet this objective by regularly determining the size of the MEE and issuing additional allotment base accordingly. Specifically, the Committee has raised the quantity of allotment base issued to new producers, and increased the allotment bases of those existing producers who hold allotment bases that are below the levels that comprise the minimum economic threshold required for spearmint oil production.

Another Committee objective has been to issue as many additional allotment bases as possible to new producers, at levels considered economically viable to each recipient. However, since the order limits the amount of additional allotment base issued to new producers, and because the size of the MEE required for spearmint oil production must be considered, the Committee has found it necessary to limit the number of new producers that are issued additional allotment base each year. Therefore, given the circumstances, the Committee believes the combination of these actions provides the best method available for optimizing the number of new producers that enter and remain in business, and also helps assure that there will continue to be a broad base of spearmint oil production.

The procedure for issuing additional allotment base to new and existing producers has been modified several times since the inception of the order. Between 1982 and 1991, the entire Far West spearmint oil production area was treated as a single region for the purpose of issuing additional allotment base to new producers. The Committee would determine the size and number of economic enterprises of additional

allotment base for each class of spearmint oil to be made available to new producers. The additional allotment bases were then issued to new producers drawn from the lot of eligible individuals who had requested additional allotment base.

In 1991, the order's administrative rules and regulations were modified through the rulemaking process to divide the production area into four regions for purposes of issuing additional allotment base to new producers. An equal number of allotment bases were issued to new producers in each region based on the amount of additional allotment base available and the MEE determined by the Committee. Based on the Committee's determinations, this effectively allowed one new producer annually from each of the four regions to be issued additional allotment base, for each class of spearmint oil.

Again in 1997, rulemaking action was taken to reorganize and reduce the number of regions within the Far West production area from four to three. This revision had the effect of reducing the number of new producers that were issued additional allotment bases each year from four to three for each class of spearmint oil. The Committee recommended the revision with the purpose of distributing additional allotment bases within the production area, and to increase the size of allotment bases issued to new producers to correspond to the size of the MEE. The Committee had determined that the size of the MEE for spearmint oil production had increased to a point where there was insufficient additional allotment base to issue economically sufficient quantities of base to new producers in all four regions. By reorganizing and reducing the number of regions to three, there was adequate additional allotment base to issue base to three new producers of each class of spearmint oil. In reaching its recommendation, the Committee weighed the importance of issuing as many additional allotment bases as possible against the need to issue such bases at levels considered economically viable to each recipient.

In 2000, the three regions of the Far West production area were further reduced to two regions through the rulemaking process. However, the number of new producers issued additional allotment bases each year was maintained at three for each class of spearmint oil. As before, the Committee recommended the revision with the purpose of distributing additional allotment bases to new

spearmint oil producers throughout the production area.

The proposal to reduce the number of new producers issued additional allotment base each year from three to two for each class of spearmint oil is consistent with previous rulemaking. The Committee's purpose, then and now, is to ensure that a maximum number of eligible new producers are issued additional allotment bases each year at levels that are economically viable to produce each class of spearmint oil.

Consistent with actions taken in the past, the Committee made the recommendation after carefully considering information available from its management records, Federal and state government sources, and industry participants. The Committee also considered the size of the MEE required for the production of each class of spearmint oil, historical statistics relating to the locations of the producers applying for the annual additional allotment base, and other factors, such as number of producers in the regulated production area and the amount of allotment base held by such producers. Based on its review, the Committee believes that the recommended action is the most effective option available in order to continue fulfilling the order's objectives.

#### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are eight spearmint oil handlers subject to regulation under the order. In addition, there are approximately 36 producers of Scotch spearmint oil and approximately 91 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as

those having annual receipts of less than \$750,000.

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the manufacture and trade of essential oils and the products of essential oils in the international market. In addition, the Committee estimates that 19 of the 36 Scotch spearmint oil producers and 29 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, many handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for purposes of weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, a majority of spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and, as such, are more at risk from market fluctuations. Such small producers generally need to market their entire annual allotment and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable market and price provides small producing entities with the ability to maintain sufficient cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit small producers more than such provisions benefit large producers.

This proposal would revise the procedure for issuing additional allotment base by reducing the number

of additional allotment bases issued to new producers from three to two, for each class of spearmint oil. In addition, this action would increase the required retention period prior to transferability of additional allotment base issued to new producers from two years to five years following issuance.

This proposal would also temporarily change the procedures for the allocation of additional allotment base by class to take into account existing producers that are below the MEE threshold. This revision is intended to help existing small spearmint oil producers by increasing their individual allotment bases to a level that approximates the MEE required for spearmint oil production. The action would help ensure that small existing spearmint oil producers have sufficient allotment base to remain economically viable in the future. Also, this proposal would provide that additional allotment base issued to existing small producers could not be used to replace allotment base which has been previously transferred away. Finally, this action would provide that additional allotment base issued under the revised procedure could not be transferred for at least five years following issuance. The proposed procedure revising the method by which additional allotment base is allocated to existing producers would be in effect temporarily through May 31, 2017, for Scotch spearmint oil, and May 31, 2018, for Native spearmint oil, or until all producers who are eligible and apply have received enough allotment base to bring them up to the respective MEE level for each class of oil. Authority for this action is provided in § 985.53(d)(3) of the order.

At the meeting on November 6, 2013, the Committee discussed the impact of the proposed revisions on handlers and producers in terms of costs and returns. Under the order, the Committee is responsible for determining the size of the MEE required to produce each class of spearmint oil. The Committee determined the MEE size for the 2014–2015 and subsequent marketing years to be 5,121 pounds for Scotch spearmint oil and 5,812 pounds for Native spearmint oil. Taking this information into consideration, the Committee calculated that the number of new producers issued additional allotment bases each year would need to be reduced from three to two for each class of oil. While this action would reduce the number of new producers issued additional allotment bases each year, each new producer would have a larger initial allotment base, thereby enhancing their long term economic viability in the spearmint oil industry.

Additionally, the Committee estimates there are 21 producers of Scotch spearmint oil whose allotment bases are below the MEE threshold and it would take a total of 21,913 pounds of additional allotment base to raise these producers' allotment bases up to the Scotch spearmint oil MEE threshold. Likewise, the Committee estimates there are also 30 producers of Native spearmint oil whose allotment bases are below the MEE level, and it would take a total of 43,456 pounds of additional allotment base to raise these producers' allotment bases to the size of the MEE required to produce Native spearmint oil.

While the amount of additional allotment base necessary to bring all spearmint oil producers' allotment bases up to the MEE threshold is a fraction of the total allotment base, the benefits of the proposed revision would be significant to these small producers, because it would improve their economic viability into the future. Without the revision, small spearmint oil producers are at a greater risk of not being able to continue to produce spearmint oil. Therefore, the benefits of this proposed rule are expected to be greater for small producers than for larger entities.

The Committee discussed several alternatives to the recommendations contained in this proposed rule, including not making any changes to the procedures as currently prescribed in the order. However, the Committee determined that not taking the MEE threshold into consideration when issuing additional base would have negative impacts primarily affecting new and existing small producers. The Committee concluded that the most effective option was to revise the procedure for issuing additional allotment base in order to improve the economic viability of new and existing producers whose allotment bases are below the MEE threshold.

The Committee also considered alternative MEE thresholds before deciding on the levels that were most representative of the production economics for each class of spearmint oil. The Committee considers the size of the MEE for the production of each class of spearmint oil is accurate and appropriate given the information available.

In addition, the Committee considered the length of time that new and existing producers should be expected to hold onto additional allotment base issued under the proposed revised procedure before such allotment base could be transferred. The Committee considered other retention

periods other than the proposed five years, including maintaining the current two year retention period. However, it concluded that a five year retention requirement prior to transfer of additional allotment base issued under the proposed revised procedure was a sufficient period for new and existing producers to demonstrate viability in spearmint oil production and should not present an undue hardship on the producers being issued the additional allotment base.

In its deliberations, the Committee considered all available information, including its determination of the size of the MEE required for spearmint oil production, historical statistics relating to the locations of the producers applying for the annual additional allotment base, and other factors such as the number of producers in the regulated production area and the amount of allotment base held by such producers. Based on those determinations, the full eight-member Committee unanimously recommended revising the procedure for issuing additional allotment base to new and existing spearmint oil producers, for each class of oil, as proposed herein.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements is currently approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Generic Vegetable and Specialty Crops. Upon publication of the final rule, we will submit a Justification of Change to make minor modifications changing the appearance of two forms and adjusting the burden, accordingly.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the March 6, 2013, and the November 6, 2013, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and

informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because: (1) The 2014–2015 fiscal period begins on June 1, 2014; (2) affected spearmint oil producers need to be informed as soon as possible of any changes in base allotment allocation in order to plan their plantings accordingly; and (3) spearmint oil producers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to previous actions recommended by the Committee and approved by the Secretary.

**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 proposed to be 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. In § 985.153, redesignate and revise paragraphs (c)(1)(ii) as (c)(1)(iii) and (c)(2)(ii) as (c)(2)(iv), add new paragraphs (c)(1)(ii), (c)(2)(ii) and (c)(2)(iii), and revise paragraph (d) to read as follows:

**§ 985.153 Issuance of additional allotment base to new and existing producers.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) The Committee shall review all requests from new producers for additional allotment base made available pursuant to § 985.53(d)(1).

(iii) Each year, the Committee shall determine the size of the minimum economic enterprise required to produce each class of oil. The Committee shall thereafter calculate the number of new producers who will receive allotment base under this section for each class of oil. The

Committee shall include that information in its announcements to new producers in each region informing them when to submit requests for allotment base. The Committee shall determine whether the new producers requesting additional base have the ability to produce spearmint oil. The names of all eligible new producers from each region shall be placed in separate lots per class of oil. For each class of oil, separate drawings shall be held from a list of all applicants from Region A and from a list of all applicants from Region B. If, in any marketing year, there are no requests for additional base in a class of oil from eligible new producers in a region, such unallocated additional allotment base shall be issued to an eligible new producer whose name is selected by drawing from a list containing the names of all remaining eligible new producers from the other region for that class of oil. The Committee shall immediately notify each new producer whose name was drawn and issue that producer an allotment base in the appropriate amount. Allotment base issued to new producers under this section shall not be transferred for at least five years following issuance.

(2) \* \* \*

(ii) *Class 1 base.* With respect to the issuance of additional Class 1 allotment base to existing producers for the 2014–2015 through the 2016–2017 marketing years, existing producers with less than 5,121 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 1 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,121 pounds: *Provided*, That such additional Class 1 allotment base shall be allocated to eligible producers on a pro-rata basis from available additional Class 1 allotment base: *Provided further*, That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,121 pounds of Class 1 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iii) *Class 3 base.* With respect to the issuance of additional Class 3 allotment base for existing producers for the 2014–2015 through the 2017–2018 marketing years, existing producers with less than

5,812 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 3 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,812 pounds: *Provided*, That such additional Class 3 allotment base shall be allocated to eligible producers on a pro-rata basis from available additional Class 3 allotment base: *Provided further*, That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,812 pounds of Class 3 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iv) For each marketing year after 2016–2017 for Class 1 oil and 2017–2018 for Class 3 oil, each existing producer of a class of spearmint oil who requests additional allotment base, and who has the ability to produce additional quantities of that class of spearmint oil, shall be eligible to receive a share of the additional allotment base issued for that class of oil. Additional allotment base issued by the Committee for a class of oil shall be distributed on a prorated basis among the eligible producers for that class of oil. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount. Allotment base issued to existing producers under this section shall not be transferred for at least two years following issuance, except that additional allotment base allocated pursuant to paragraph (c)(2)(ii) and (c)(2)(iii) of this section shall not be transferred for at least five years following issuance.

(d) The person receiving additional allotment base pursuant to this section shall submit to the Committee evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base.

Dated: April 29, 2014.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014–10132 Filed 5–5–14; 8:45 am]

**BILLING CODE P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 52

[NRC–2010–0135]

RIN 3150–AI85

### ESBWR Design Certification

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Supplemental proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to certify the Economic Simplified Boiling-Water Reactor (ESBWR) standard plant design. The proposed ESBWR design certification rule was published for public comment on March 24, 2011. The NRC is publishing this supplemental proposed rule to provide an opportunity for the public to comment on two matters. The first is proposed changes related to the analysis methodology supporting the ESBWR steam dryer design that were made after the close of the public comment period for the proposed ESBWR design certification rule. The second is the NRC's proposed clarification of its intent to treat 50 referenced documents within Revision 10 of the ESBWR design control document (DCD) as requirements and matters resolved in subsequent licensing and enforcement actions for plants referencing the ESBWR design certification. In addition, the supplemental proposed rule clarifies that the NRC intends to obtain approval for incorporation by reference from the Director of the Office of the Federal Register for the generic DCD and 20 publicly-available documents that are referenced in the DCD that are intended by the NRC to be requirements. The supplemental proposed rule does not offer an opportunity for public comment on this clarification of the NRC's intent. Finally, the supplemental proposed rule updates the version of the DCD (from Revision 9 to Revision 10) which the NRC proposes to obtain approval for incorporation by reference from the Office of the Federal Register. Revision 10 of the DCD was needed to address the previously described matters. The applicant for certification of the ESBWR design is GE-Hitachi Nuclear Energy (GEH).

**DATES:** Submit comments by June 5, 2014. The NRC will not address any comments received after this date, except as discussed in Section I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2010–0135. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** George M. Tartal, telephone: 301–415–0016, email: [George.Tartal@nrc.gov](mailto:George.Tartal@nrc.gov); or David Misenhimer, telephone: 301–415–6590, email: [David.Misenhimer@nrc.gov](mailto:David.Misenhimer@nrc.gov). Both of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

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