

# Rules and Regulations

Federal Register

Vol. 80, No. 60

Monday, March 30, 2015

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 week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Doc. No. AMS-FV-13-0087; FV14-985-1C IR]

#### Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2014–2015 Marketing Year

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

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule implements a recommendation from the Spearmint Oil Administrative Committee (Committee) to further revise the quantity of Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2014–2015 marketing year under the Far West spearmint oil marketing order (order). The salable quantity and allotment percentage for Native spearmint oil was initially established at 1,090,821 pounds and 46 percent, respectively, and was subsequently increased to 1,280,561 pounds and 54 percent in a separate rulemaking action. This rule further increases the Native spearmint oil salable quantity to 1,351,704 pounds and the allotment percentage to 57 percent for the 2014–2015 marketing year. The order regulates the handling of spearmint oil produced in the Far West and is locally administered by the Committee, which is comprised of spearmint oil producers operating within the order's area of production. The Committee recommended this rule for the purpose of maintaining orderly marketing conditions in the Far West spearmint oil market.

**DATES:** Effective March 30, 2015 and applicable to the 2014–2015 marketing year; comments received by May 29, 2015 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this 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 rule 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:**

Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, 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: [Barry.Broadbent@ams.usda.gov](mailto:Barry.Broadbent@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 interim rule 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 rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantity of Native spearmint oil produced in the Far West that handlers may purchase from, or handle on behalf of, producers during the 2014–2015 marketing year, which began on June 1, 2014, and ends on May 31, 2015.

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 rule revises the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2014–2015 marketing year under the Far West spearmint oil marketing order. Prior to this rule, the salable quantity and allotment percentage for Native spearmint oil was initially established at 1,090,821 pounds and 46 percent, respectively, in a final rule published May 8, 2014 (79 FR 26359). The salable quantity and allotment percentage was subsequently increased to 1,280,561 pounds and 54 percent in an interim rule published January 22, 2015 (80 FR 3142). This interim rule further increases the Native spearmint oil salable quantity from 1,280,561 pounds to 1,351,704 pounds and the allotment percentage from 54 percent to 57 percent. This action is anticipated to be

the last revision of the Native spearmint oil salable quantity and allotment percentage established under the order for the 2014–2015 marketing year.

Under the volume regulation provisions of the order, the Committee meets each year to adopt a marketing policy for the ensuing year. When the Committee's marketing policy considerations indicate a need for limiting the quantity of spearmint oil available to the market to establish or maintain orderly marketing conditions, the Committee submits a recommendation to the Secretary for volume regulation.

Volume regulation under the order is effectuated through the establishment of a salable quantity and allotment percentage applicable to each class of spearmint oil handled in the production area during a marketing year. The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle on behalf of, producers during a given marketing year. The allotment percentage for each class of oil is derived by dividing the salable quantity by the total industry allotment base for that same class of oil. The total industry allotment base is the aggregate of all allotment base held individually by producers. Producer allotment base is the quantity of each class of spearmint oil that the Committee has determined is representative of a producer's spearmint oil production. Each producer is allotted a pro rata share of the total salable quantity of each class of spearmint oil each marketing year. Each producer's annual allotment is determined by applying the allotment percentage to the producer's individual allotment base for each applicable class of spearmint oil.

The full Committee met on November 6, 2013, to consider its marketing policy for the 2014–2015 marketing year. At that meeting, the Committee determined that marketing conditions indicated a need for volume regulation of both classes of spearmint oil for the 2014–2015 marketing year. The Committee recommended salable quantities of 1,149,030 pounds and 1,090,821 pounds, and allotment percentages of 55 percent and 46 percent, respectively, for Scotch and Native spearmint oil. A proposed rule to that effect was published in the **Federal Register** on March 14, 2014 (79 FR 14441). Comments on the proposed rule were solicited from interested persons until March 31, 2014. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2014–2015 marketing year was published in the

**Federal Register** on May 8, 2014 (79 FR 26359).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the full eight member Committee met again on September 11, 2014, to consider pertinent market information on the current supply, demand, and price of spearmint oil. After some deliberation, the Committee recommended increasing the 2014–2015 marketing year Scotch spearmint oil salable quantity from 1,149,030 pounds to 1,984,423 pounds and the allotment percentage from 55 percent to 95 percent. An interim rule to that effect was published in the **Federal Register** on October 31, 2014 (79 FR 64657).

The full Committee met again on November 5, 2014, for a regularly scheduled annual meeting to evaluate the current year's volume control regulation and to adopt a marketing policy for the 2015–2016 marketing year. After thorough discussion with regards to the current marketing conditions for Native spearmint oil, the Committee recommended revising the previously established 2014–2015 marketing year Native spearmint oil salable quantity and allotment percentage. Subsequently, in an interim rule published in the **Federal Register** on January 22, 2015 (80 FR 3142), the salable quantity for Native spearmint oil was increased from 1,090,821 pounds to 1,280,561 pounds and the allotment percentage was increased from 46 percent to 54 percent.

The full Committee met again on February 18, 2015, for a regularly scheduled meeting where it again evaluated the current year's volume control regulation. At the meeting, the Committee assessed the current market conditions for spearmint oil in relation to the revised salable quantities and allotment percentages established for the 2014–2015 marketing year. The Committee considered a number of factors, including the current and projected supply, estimated future demand, production costs, and producer prices for all classes of spearmint oil. The Committee determined that the recently revised salable quantity and allotment percentage in effect for Native spearmint oil for the 2014–2015 marketing year should be further increased to take into account the unanticipated rise in market demand for that class of spearmint oil.

Therefore, the Committee recommended increasing the Native spearmint oil salable quantity from 1,280,561 pounds to 1,351,704 pounds and the allotment percentage from 54 percent to 57 percent. The recommendation to increase the salable

quantity and allotment percentage passed unanimously.

Thus, taking into consideration the following discussion, this rule makes additional amounts of Native spearmint oil available to the market by further increasing the salable quantity and allotment percentage previously established under the order for the 2014–2015 marketing year. This rule increases the Native spearmint oil salable quantity 71,143 pounds, to 1,351,704 pounds, and raises the allotment percentage 3 percent points, to 57 percent. Such additional oil will become available to the market by releasing Native spearmint oil held by producers in the reserve pool. As of May 31, 2014, the Committee records show that the reserve pool for Native spearmint oil contained 446,086 pounds of oil.

The increase in the salable quantity as a result of this rule represents an additional 71,143 pounds of Native spearmint oil being made available to the market. However, as some individual producers do not hold Native spearmint oil from previous year's production in the reserve pool, the Committee expects that only 48,769 pounds of additional Native spearmint oil will actually be made available to the spearmint oil market. The relatively high salable quantity resulting from this action, as compared to the actual quantity of spearmint oil that will be made available to the market, is necessary to ensure that a sufficient quantity of Native spearmint oil is available to fully supply the market. Producers that do not have additional Native spearmint oil in inventory (oil held in the reserve pool) will not be able to utilize the additional annual allotment issued to them as a result of this action and such additional annual allotment will go unused.

At the February meeting, the Committee staff reported that demand for Native spearmint oil continues to be greater than anticipated. Committee records indicate that 2014–2015 marketing year sales through the end of January 2015, the most recent full month recorded, are 148,325 pounds higher than for the same period in the 2013–2014 marketing year and 211,163 pounds higher than the average sales for the same period for the years 2009–2013. The Committee now estimates trade demand for Native spearmint oil for the 2014–2015 marketing year to be approximately 1,443,899 pounds, up from the 1,300,000 pounds initially estimated in the fall of 2013, and the 1,341,000 pounds estimated at the Committee's November 2014 meeting. If realized, this quantity of trade demand

would be just 19,872 pounds less than the quantity of Native spearmint oil available under the volume control levels implemented in January 2015 (1,463,771 pounds available prior to this rule minus 1,443,899 pounds demanded = 19,872 pounds). The increased quantity of Native spearmint oil (48,769 pounds) actually made available to the market as a result of this action would ensure that market demand is fully satisfied in the current year and that there would be approximately 68,641 pounds of Native spearmint oil salable inventory available to the market for the start of the 2015–2016 marketing year, which begins on June 1, 2015.

In making the recommendation to increase the salable quantity and allotment percentage of Native spearmint oil, the Committee considered all currently available information on the price, supply, and demand of spearmint oil. The Committee also considered reports and other information from handlers and producers in attendance at the meeting. Lastly, the Committee manager presented information and reports that were provided to the Committee staff by handlers and producers who were not in attendance at the February 18, 2015, meeting.

This action increases the 2014–2015 marketing year Native spearmint oil salable quantity by 71,143 pounds, to a total of 1,351,704 pounds. However, as mentioned previously, the net effect of the increase will be much less than the calculated increase due to the amount of actual oil individual producers have available to market from reserve pool inventory. The Committee estimates that this action will actually make an additional 48,769 pounds of Native spearmint oil available to the market. That amount, combined with the 89,872 pounds of salable Native spearmint oil that the Committee estimates is currently available to the market, will make a total of 138,641 pounds available to be marketed through the remainder of the marketing year. The total supply of Native spearmint oil that the Committee anticipates actually being available to the market over the course of the 2014–2015 marketing year will be increased to 1,512,540 pounds. Actual sales of Native spearmint oil for the 2013–2014 marketing year totaled 1,341,555 pounds.

The Committee estimates that this action will result in 68,641 pounds of salable Native spearmint oil being carried into the 2015–2016 marketing year. In addition, the Committee expects that 248,602 pounds of Native spearmint oil will still be held in reserve pool stocks by producers after

this increase. These inventory levels are low in comparison to historical levels, but are well within the range that the Committee believes to be appropriate moving forward. In addition, the Committee believes that the current Native spearmint oil market situation will stimulate production of Native spearmint oil in the coming years, further ensuring that the market will be adequately supplied in the future.

As mentioned previously, when the original 2014–2015 marketing policy statement was drafted, handlers estimated the demand for Native spearmint oil for the 2014–2015 marketing year to be 1,300,000 pounds. The Committee's initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 2014–2015 marketing year was based on that estimate. The Committee did not anticipate the increase in demand for Native spearmint oil that the market is currently experiencing and did not make allowances for it when the marketing policy was initially adopted. At the February 18, 2015, meeting, the Committee revised its estimate of the current trade demand to 1,443,899 pounds. The Committee now believes that the supply of Native spearmint oil available to the market under the previously revised salable quantity and allotment percentage would be insufficient to satisfy the current level of demand for oil at reasonable price levels. The Committee further believes that the increase in the salable quantity and allotment percentage effectuated by this action is vital to ensuring an adequate supply of Native spearmint oil is available to the market moving forward.

As previously stated, it is anticipated that this action will make 48,769 pounds of the Native spearmint oil held in the reserve pool available to the market. However, to achieve that desired net effect under the current supply conditions in the industry, it is necessary for the salable quantity and allotment percentage established under the volume regulation provisions of the order to be set at artificially high levels. The Committee records show that some producers do not hold Native spearmint oil in reserve. Given the process by which volume regulation is effectuated under the order, only those producers with Native spearmint oil in the reserve pool will be able to utilize the additional annual allotment that is issued as a result of this rule. Likewise, producers that do not have Native spearmint oil reserve oil from prior years' production will not have any Native spearmint oil inventory to offer

to the market, regardless of how much additional annual allotment is issued to those producers. As such, the Committee expects that approximately 31 percent of the increased salable quantity and allotment percentage for Native spearmint oil may go unused.

As an example, assume Producer A has 2,000 pounds of Native spearmint oil allotment base. In addition, assume that during the 2014–2015 marketing year Producer A produced 920 pounds of Native spearmint oil and held 220 pounds of excess Native spearmint oil in reserve from production in prior years. Given that the initial 2014–2015 marketing year allotment percentage was established at 46 percent, Producer A could market all 920 pounds of the current year production (46 percent allotment percentage  $\times$  2,000 pounds of allotment base), leaving him/her with 220 pounds in the reserve pool that was initially not available to market. Without an increase in the allotment percentage, the producer would not have been able to market any of the 220 pounds of reserve oil and the oil would have continued to have been held in the reserve pool for marketing in subsequent years. For Producer A to market all 1,140 pounds of his/her current year Native spearmint oil production and reserve inventory, the allotment percentage needs to be increased by 11 percent (8 percent plus 3 percent) to a total of 57 percent (57 percent  $\times$  2,000 pounds = 1,140 pounds). An increase in the allotment percentage of anything less than 11 percent would fail to release all of the Native spearmint oil that the producer holds in the reserve pool. The increase in the allotment percentage may be accomplished in several steps, but has a cumulative effect with regards to the release of spearmint oil held in the reserve pool.

In contrast, assume that another producer, Producer B, likewise has 2,000 pounds of Native spearmint oil allotment base and produced 920 pounds of Native spearmint oil during the 2014–2015 marketing year. However, Producer B has no Native spearmint oil held in reserve. As in the first case, Producer B could market all of his/her current year production under the initial allotment percentage of 46 percent. However, any subsequent increase in the allotment percentage would have no impact on Producer B, as the producer has no reserve pool oil available to deliver to the market. As a result, any additional annual allotment allocated to Producer B after an increase in the allotment percentage would go unfilled.

The Committee acknowledges that the relatively high salable quantity, and the corresponding high allotment percentage, will create a quantity of Native spearmint oil annual allotment for which no Native spearmint oil will actually be available to market. The Committee estimates that a 3 percent increase in the allotment percentage and a 71,143 pound increase in the salable quantity is required to make the desired 48,769 pounds of Native spearmint reserve pool oil available to the market. Accordingly, the Committee expects that 22,374 pounds of the recommended 71,143 pound increase in salable quantity will go unfilled. This quantity of underutilized salable quantity has been factored into the Committee's recommendation.

The Committee's stated intent in the use of marketing order volume control regulation is to keep adequate supplies available to meet market needs and to maintain orderly marketing conditions. With that in mind, the Committee developed its recommendation for increasing the Native spearmint oil salable quantity and allotment percentage for the 2014–2015 marketing year based on the information discussed above, as well as the summary data outlined below.

(A) Estimated 2014–2015 Native Allotment Base—2,371,350 pounds. This is the estimate on which the original 2014–2015 salable quantity and allotment percentage was based.

(B) Revised 2014–2015 Native Allotment Base—2,371,410 pounds. This is 60 pounds more than the estimated allotment base of 2,371,350 pounds. The difference is the result of annual adjustments made to the allotment base according to the provisions of the order.

(C) Original 2014–2015 Native Allotment Percentage—46 percent. This was unanimously recommended by the Committee on November 6, 2013.

(D) Original 2014–2015 Native Salable Quantity—1,090,821 pounds. This figure is 46 percent of the original estimated 2014–2015 allotment base of 2,371,350 pounds.

(E) Adjusted Initial 2014–2015 Native Salable Quantity—1,090,849 pounds. This figure reflects the salable quantity actually available at the beginning of the 2014–2015 marketing year. This quantity is derived by applying the initial 46 percent allotment percentage to the revised allotment base of 2,371,410.

(F) First Revision to the 2014–2015 Native Salable Quantity and Allotment Percentage:

(1) Initial Increase in the Native Allotment Percentage—8 percent. The

Committee recommended an 8 percent increase at its November 5, 2014, meeting. The revision was published in the **Federal Register** on January 22, 2015 (80 FR 3142).

(2) Revised 2014–2015 Native Allotment Percentage—54 percent. This number was derived by adding the increase of 8 percent to the initially established 2014–2015 allotment percentage of 46 percent.

(3) Revised 2014–2015 Native Salable Quantity—1,280,561 pounds. This amount is 54 percent of the revised 2014–2015 allotment base of 2,371,410 pounds.

(G) Second Revision to the 2014–2015 Native Salable Quantity and Allotment Percentage:

(1) Increase in Native Allotment Percentage—3 percent. The Committee unanimously recommended a 3 percent increase at its February 18, 2015, meeting.

(2) Revised 2014–2015 Native Allotment Percentage—57 percent. This number is derived by adding the 3 percent increase to the previously revised 2014–2015 allotment percentage of 54 percent.

(3) Revised 2014–2015 Native Salable Quantity—1,351,704 pounds. This amount is 57 percent of the revised 2014–2015 allotment base of 2,371,410 pounds.

(4) Computed Increase in the 2014–2015 Native Salable Quantity as a Result of this Revision—71,143 pounds. This figure is 3 percent of the revised 2014–2015 allotment base of 2,371,410 pounds.

(5) Expected Actual Increase in the 2014–2015 Native Spearmint Oil Available to the Market—48,769 pounds. This amount is based on the Committee's estimation of Native spearmint oil actually held in the reserve pool by producers that may enter the market as a result of this rule.

Scotch spearmint oil is also regulated by the order. As mentioned previously, a salable quantity and allotment percentage for Scotch spearmint oil was established in a final rule published in the **Federal Register** on May 8, 2014 (79 FR 26359) and subsequently increased in an interim rule published in the **Federal Register** on October 31, 2014 (79 FR 64657). At the February 18, 2015, meeting, the Committee considered the current production, inventory, and marketing conditions for Scotch spearmint oil. After receiving reports from the Committee staff and comments from the industry, the consensus of the Committee was that the previously increased salable quantity and allotment percentage for Scotch spearmint oil was appropriate for the current market

conditions. As such, the Committee took no further action with regards to Scotch spearmint oil for the 2014–2015 marketing year.

This rule relaxes the regulation of Native spearmint oil and will allow producers to meet market demand while improving producer returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2014–2015 marketing year has been reviewed by USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2014–2015 salable quantities and allotment percentages, the Committee considered: (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) the prospective production of each class of oil; (4) the 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; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. Conformity with USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" has also been reviewed and confirmed.

The increase in the Native spearmint oil salable quantity and allotment percentage allows for anticipated market needs for that class of oil. In determining anticipated market needs, the Committee considered changes and trends in historical sales, production, and demand.

#### 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 the 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 8 spearmint oil handlers subject to regulation under the order, and approximately 39 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) 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 (13 CFR 121.201).

Based on the SBA's definition of small entities, the Committee estimates that only two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 22 of the 39 Scotch spearmint oil producers and 29 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, the majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The use of volume control regulation allows the spearmint oil industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Without volume control regulation, the supply and price of spearmint oil would likely fluctuate widely. Periods of oversupply could result in low producer prices and a large volume of oil stored and carried over to future crop years. Periods of undersupply could lead to excessive price spikes and could drive end users to source flavoring needs from other markets, potentially causing long-term economic damage to the domestic spearmint oil industry. The marketing order's volume control provisions have been successfully implemented in the domestic spearmint oil industry since 1980 and provide benefits for producers, handlers, manufacturers, and consumers.

This rule increases the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2014–2015 marketing year, which ends on May 31, 2015. The 2014–2015 Native spearmint oil salable quantity was initially established at 1,090,821 pounds and the allotment percentage initially set at 46 percent. The salable quantity was subsequently increased to 1,280,561 pounds and the allotment percentage to 54 percent. This rule further increases

the Native spearmint oil salable quantity to 1,351,704 pounds and the allotment percentage to 57 percent.

Based on the information and projections available at the February 18, 2015, meeting, the Committee considered a number of alternatives to this increase. The Committee not only considered leaving the salable quantity and allotment percentage unchanged, but also considered other potential levels of increase. The Committee reached its recommendation to increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information and input from all interested industry participants, and believes that the levels recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to satisfactorily meet market demand.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crop Marketing Orders. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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.

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

Further, the Committee's meeting was widely publicized throughout the spearmint oil industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the February 18, 2015, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on 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.

This rule invites comments on a change to the salable quantity and allotment percentage for Native spearmint oil for the 2014–2015 marketing year. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule increases the quantity of Native spearmint oil that may be marketed during the marketing year, which ends on May 31, 2015; (2) the current quantity of Native spearmint oil may be inadequate to meet demand for the 2014–2015 marketing year, thus making the additional oil available as soon as is practicable will be beneficial to both handlers and producers; (3) the Committee recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period, and any comments received will be considered prior to finalization of this 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. In § 985.233, revise paragraph (b) to read as follows:

**§ 985.233 Salable quantities and allotment percentages—2014–2015 marketing year.**

\* \* \* \* \*

(b) Class 3 (Native) oil—a salable quantity of 1,351,704 pounds and an allotment percentage of 57 percent.

Dated: March 24, 2015.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2015-07114 Filed 3-27-15; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 985**

[Doc. No. AMS-FV-13-0087; FV14-985-1A FIR]

**Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) Spearmint Oil for the 2014–2015 Marketing Year**

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim rule recommended by the Spearmint Oil Administrative Committee (Committee) that revised the quantity of Class 1 (Scotch) spearmint oil that handlers may purchase from or handle on behalf of, producers during the 2014–2015 marketing year under the Far West spearmint oil marketing order. The Committee locally administers the order and is comprised of producers and handlers of spearmint oil. The interim rule increased the Scotch spearmint oil salable quantity from 1,149,030 pounds to 1,984,423 pounds and the allotment percentage from 55 percent to 95 percent. This change is expected to help maintain orderly marketing conditions in the Far West spearmint oil market.

**DATES:** Effective March 30, 2015.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, 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: [Barry.Broadbent@ams.usda.gov](mailto:Barry.Broadbent@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or 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 rule 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 rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of spearmint oil produced in the Far West is regulated by the order and is administered locally by the Committee. Under the authority of the order, salable quantities and allotment percentages were established for both Scotch and Native spearmint oil for the 2014–2015 marketing year. However, early in the 2014–2015 marketing year, it became evident to the Committee and the industry that demand for Scotch spearmint oil was greater than previously projected and an intra-seasonal increase in the salable quantity and allotment percentage for Scotch spearmint oil was necessary to adequately supply the increased demand. Therefore, this rule continues in effect the rule that increased the Scotch spearmint oil salable quantity from 1,149,030 pounds to 1,984,423 pounds and the allotment percentage from 55 percent to 95 percent.

In an interim rule published in the **Federal Register** on October 31, 2014, and effective June 1, 2014, through May 31, 2015 (79 FR 64657, Doc. No. AMS-FV-13-0087, FV14-985-1A IR), § 985.233 was amended to reflect the aforementioned increases in the salable quantity and allotment percentage for Scotch spearmint oil for the 2014–2015 marketing year.

**Final 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 final 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 the 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 8 spearmint oil handlers subject to regulation under the order, and approximately 39 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) 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 (13 CFR 121.201).

Based on the SBA’s definition of small entities, the Committee estimates that only two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 22 of the 39 Scotch spearmint oil producers and 29 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, the majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The use of volume control regulation allows the spearmint oil industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Without volume control regulation, the supply and price of spearmint oil would likely fluctuate widely. Periods of oversupply could result in low producer prices and a large volume of oil stored and carried over to future crop years. Periods of undersupply could lead to excessive price spikes and could drive end users to source their flavoring needs from other markets, potentially causing long-term economic damage to the domestic spearmint oil industry. The order’s volume control provisions have been successfully implemented in the domestic spearmint oil industry since 1980 and provide benefits for producers, handlers, manufacturers, and consumers.