



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS-FV-14-0027; FV14-985-3 FIR]

**Spearmint Oil Produced in the Far West; Decreased
Assessment Rate**

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 that decreased the assessment rate established for the Spearmint Oil Administrative Committee (Committee) for the 2014-2015 and subsequent marketing years from \$0.10 to \$0.09 per pound of spearmint oil handled. The Committee locally administers the marketing order which regulates the handling of spearmint oil produced in the Far West. The interim rule was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective July 28, 2014.

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 E-mail: Manuel.Michel@ams.usda.gov or 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 website:

<http://www.ams.usda.gov/AMSV1.0/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 E-mail: 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 grown 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.

Under the order, Far West spearmint oil handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Far West spearmint oil for the entire fiscal period and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on June 1, and ends on May 31.

In an interim rule published in the **Federal Register** on April 22, 2014, and effective on April 23, 2014, (79 FR 22359, Doc. No. AMS-FV-14-0027, FV11-985-3 IR), § 985.141 was amended by decreasing the assessment rate established for Far West spearmint oil for the 2014-2015 and subsequent marketing years from \$0.10 to \$0.09 per pound. The decrease in the per pound assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

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 rule 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 eight spearmint oil handlers subject to regulation under the order. In addition, there are 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 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, a majority of 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.

This rule continues in effect the action that decreased the assessment rate established for the Committee

and collected from handlers for the 2014-2015 and subsequent marketing years from \$0.10 to \$0.09 per pound of spearmint oil handled. The Committee unanimously recommended 2014-2015 expenditures of \$266,400 and an assessment rate of \$0.09. The assessment rate of \$0.09 is \$0.01 lower than the rate previously in effect. The quantity of assessable spearmint oil for the 2014-15 marketing year is estimated at 2,500,000 pounds. Thus, the \$0.09 rate should provide \$225,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's monetary reserve will be adequate to cover the budgeted expenses. This action will allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

Additionally, the Committee's meeting was widely publicized throughout the Far West spearmint oil industry

and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 19, 2014, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

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 Crops. No changes in those requirements as a result of this action are anticipated. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Far West 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.

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

Comments on the interim rule were required to be received on or before June 23, 2014. No comments were

received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0027-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 13563, 12988, and 13175; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (79 FR 22359, April 22, 2014) 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.

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

Accordingly, the interim rule amending 7 CFR part 985, which was published at 79 FR 22359 on April 22, 2014, is adopted as a final rule, without change.

Dated: July 21, 2014

Rex A. Barnes,
Associate Administrator,
Agricultural Marketing Service

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