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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

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

**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: 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 further revised 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. 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 action 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. This change is expected to help maintain orderly marketing conditions in the Far West spearmint oil market.

DATES: Effective [insert date one day after date of publication in the Federal Register].

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 E-mail: Barry.Broadbent@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/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 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, during the course of the 2014-2015 marketing year, it became evident to the Committee and the industry that demand for Native spearmint oil was greater than previously projected and an intra-seasonal increase in the salable quantity and allotment percentage for Native spearmint oil was necessary to adequately supply the increased demand. The salable quantity and allotment

percentage was subsequently increased from 1,090,821 pounds and 46 percent to 1,280,561 and 54 percent in a separate rulemaking action. The increased salable quantity and allotment percentage proved insufficient to fully supply demand and were further increased in the interim rule to 1,351,704 pounds and 57 percent. Therefore, this rule continues in effect the interim rule that increased 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.

In an interim rule published in the **Federal Register** on March 30, 2015, effective on March 30, 2015, and applicable to the 2014–2015 marketing year (80 FR 16547, Doc. No. AMS-FV-13-0087, FV14-985-1C IR), § 985.233 was amended to reflect the aforementioned increase in the salable quantity and allotment percentage for Native 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.

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 ended

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. In a separate rulemaking action, the salable quantity was increased to 1,280,561 pounds and the allotment percentage was increased 54 percent. This rule continues in effect the action that further increased the 2014-2015 Native spearmint oil salable quantity to 1,351,704 and the allotment percentage to 57 percent.

The Committee reached its decision to recommend a further increase in the salable quantity and allotment after consideration of all available information. With the increase, the Committee believes that the industry will be able to satisfactorily meet the current market demand for this class of spearmint oil. This rule amends the salable quantity and allotment percentage previously established for Native spearmint oil in § 985.233. Authority for this action is provided in §§ 985.50, 985.51, and 985.52 of the order.

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. 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.

Comments on the interim rule were required to be received on or before May 29, 2015. One comment was received. The comment was non-substantive in nature and did not address the merits of the rule. Accordingly, no

changes were made to the rule. For the reasons given in the interim rule, we are adopting the interim rule as a final rule.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-13-0087-0006>

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; 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, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (80 FR 16547, March, 2015) 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.

Accordingly, the interim rule that amended 7 CFR part 985 and that was published at 80 FR 16547 on March 30, 2015, is adopted as a final rule, without change.

Dated: August 13, 2015

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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