

a public meeting and published in the **Federal Register** as an interim final rule with a 30-day comment period.

#### 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—SPEARMINT OIL PRODUCED IN THE FAR WEST

Accordingly, the interim final rule amending 7 CFR part 985 which was published at 60 FR 17434 on April 6, 1995, is adopted as a final rule without change.

Dated: June 6, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-14278 Filed 6-9-95; 8:45 am]

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#### 7 CFR Part 985

[FV95-985-3FIR]

#### Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1995-96 Marketing Year

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that increased the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1995-96 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

**EFFECTIVE DATE:** Effective on July 12, 1995.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503)

326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202) 720-8139; or Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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 final rule finalizes an interim final rule that increased the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1995-96 marketing year, which ends on May 31, 1996. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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 the Secretary 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 the Secretary 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business 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. Thus, both statutes have small entity orientation and compatibility.

There are 8 spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) spearmint oil allotment base, and approximately 145 producers hold Class 3 (Native) spearmint oil allotment base. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A minority of handlers and producers of Far West spearmint oil may 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 are not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the order). Spearmint oil is also produced in the Midwest. The production area covered by the order normally accounts for approximately 75 percent of the annual U.S. production of spearmint oil.

This final rule finalizes an interim final rule that increased the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1995-96 marketing year, which ends on May 31, 1996. The interim final rule increased the salable quantity from 906,449 pounds to 1,004,976 pounds and the allotment percentage from 46 percent to 51 percent for Native spearmint oil for the 1995-96 marketing year.

The interim final rule was issued on April 7, 1995, and published in the **Federal Register** (60 FR 18950, April 14, 1995), with an effective date of April 14, 1995. That rule amended section 985.214 of the rules and regulations in effect under the order. The rule provided a 30-day comment period which ended May 15, 1995. No comments were received.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 1995-96 marketing year were recommended by the Committee at its October 5, 1994, meeting. The Committee recommended salable quantities of 908,531 pounds and 906,449 pounds, and allotment percentages of 51 percent and 46 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the December 15, 1994, issue of the **Federal Register** (59 FR 64625). Comments on the proposed rule were solicited from interested persons until January 17, 1995. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the Committee's recommendation as the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995-96 marketing year was published in the February 15, 1995, issue of the **Federal Register** (60 FR 8524).

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the order, at its February 22, 1995, meeting, the Committee recommended, with one member voting in opposition, that the salable quantity for Native spearmint oil for the 1995-96 marketing year be increased from 906,449 pounds to 1,004,976 pounds. The member voting in opposition did not favor an increase in the salable quantity and allotment percentage because he believed it was too early to determine what the market conditions will be during the 1995-96 marketing year. Based on the total allotment base of 1,970,542 pounds, the allotment percentage for Native spearmint oil is increased from 46 percent to 51 percent, resulting in a 98,527 pound increase in the salable quantity.

#### Native Spearmint Oil Recommendations

##### (1) Salable Quantity

October 5, 1994.....906,449 pounds  
February 22, 1995.....1,004,976 pounds

##### (2) Allotment Base

October 5, 1994.....1,970,542 pounds  
February 22, 1995.....1,970,542 pounds

##### (3) Allotment Percentage

October 5, 1994.....46 percent  
February 22, 1995.....51 percent

In making this latest recommendation, the Committee considered all available information on supply and demand. The 1995-96 marketing year begins on June 1, 1995. Handlers have indicated that the available supply of Scotch spearmint oil appears adequate to meet anticipated demand through May 31, 1996. Handlers have indicated, however, that demand for Native spearmint oil is currently fairly strong and anticipate that this trend will likely continue into the next marketing year. Based upon this strengthening demand, as well as historical data that indicates the annual average of sales for the last eight years is 1,006,512 pounds, the Committee believes that an increase in the salable quantity to 1,004,976 pounds is necessary to meet anticipated demand. This level of demand was not anticipated by the Committee when it made its initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 1995-96 marketing year.

The recommended salable quantity of 1,004,976 pounds of Native spearmint oil (an increase of 98,527 pounds), combined with a revised estimated carry-in of 100,000 pounds on June 1, 1995, results in a revised 1995-96 estimated available supply of 1,104,976 pounds. Thus, the revised estimate for the 1995-96 marketing year Native spearmint oil available supply is approximately 100,000 pounds higher than the annual average of sales for the past eight years. With this revision, the Committee anticipates that demand for Native spearmint oil during the 1995-96 marketing year will be adequately met.

The Department, based on its analysis of available information, has determined that an allotment percentage of 51 percent should be established for Native spearmint oil for the 1995-96 marketing year. This percentage will provide an increased salable quantity of 1,004,976 pounds of Native spearmint oil.

Based on available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the prior proposed, interim final and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995-96 marketing year, the

Committee's recommendation and other available information, it is found that to finalize the interim final rule revising § 985.214 (60 FR 8524) of the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

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

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

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

#### PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

Accordingly, the interim final rule amending 7 CFR part 985 which was published at 60 FR 18950 on April 14, 1995, is adopted as a final rule without change.

Dated: June 6, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-14280 Filed 6-9-95; 8:45 am]

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#### 7 CFR Part 985

[Docket No. FV95-985-1FIR]

#### Spearmint Oil Produced in the Far West; Expenses and Assessment Rate for the 1995-96 Fiscal Year

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate for the Spearmint Oil Administrative Committee (Committee) under Marketing Order No. 985 for the 1995-96 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers. **EFFECTIVE DATE:** June 1, 1995, through May 31, 1996.

#### FOR FURTHER INFORMATION CONTACT:

Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone: (202) 720-5127; or Robert Curry, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220