

## Summary of Public Comment

A notice of proposed rulemaking was published in the **Federal Register** (64 FR 58358) on October 29, 1998. Interested persons were invited to submit comments until December 28, 1999. No comments were received.

## List of Subjects in 7 CFR Part 75

Administrative practice and procedure, Agricultural commodities, Reporting and record keeping requirements, Seeds, Vegetables.

For the reasons set forth in the preamble, 7 CFR Part 75 is amended as follows:

### PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS

1. The authority citation for Part 75 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 1624.

#### § 75.41 [Amended]

2. In § 75.41, “\$40.40” is removed and “\$44.40” is added in its place.

#### § 75.47 [Amended]

3. In § 75.47, “\$10.10” is removed and “\$11.10” is added in its place.

Dated: March 20, 2000.

**Barry L. Carpenter,**

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 00-7276 Filed 3-23-00; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Docket No. FV00-985-3 IFR-A]

### 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 1999–2000 Marketing Year

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

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

**SUMMARY:** This rule amends a prior 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 1999–2000 marketing year. The prior interim final rule increased the Native spearmint oil

salable quantity by 102,311 pounds from 1,125,755 pounds to 1,228,066 pounds, and the allotment percentage by 5 percent from 55 percent to 60 percent. This rule increases the Native spearmint oil salable quantity by an additional 81,849 pounds from 1,228,066 to 1,309,915 pounds, and the allotment percentage by an additional 4 percent from 60 percent to 64 percent. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended this rule to avoid extreme fluctuations in supplies and prices, and, thus, help to maintain stability in the Far West spearmint oil market.

**DATES:** Effective on March 25, 2000 through May 31, 2000; comments received by April 24, 2000 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, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket 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.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491; Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

**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 Nevada, 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 of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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 may be purchased from or handled for producers by handlers during the 1999–2000 marketing year, which ends on May 31, 2000. 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 to review the Secretary’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

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 63 percent of the annual U.S. production of Scotch spearmint oil and approximately 93 percent of the annual U.S. production of Native spearmint oil.

This rule amends an interim final rule that was published in the **Federal Register** on February 10, 2000 (65 FR 6528). That rule, which was based on a unanimous Committee recommendation

made at a meeting on January 13, 2000, increased the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1999–2000 marketing year, which ends on May 31, 2000.

Specifically, that rule increased the salable quantity by 102,311 pounds from 1,125,755 pounds to 1,228,066 pounds, and the allotment percentage by 5 percent from 55 percent to 60 percent.

This amended interim final rule, which is based on a unanimous Committee recommendation made at a meeting on February 23, 2000, increases the salable quantity an additional 81,849 pounds from 1,228,066 pounds to 1,309,915 pounds, and the allotment percentage an additional 4 percent from 60 percent to 64 percent for Native spearmint oil for the 1999–2000 marketing year.

The initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 1999–2000 marketing year were recommended by the Committee at its October 7, 1998, meeting. The Committee recommended salable quantities of 1,199,190 pounds and 1,125,755 pounds, and allotment percentages of 65 percent and 55 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the November 17, 1998, issue of the **Federal Register** (63 FR 63804). A final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1999–2000 marketing year was published in the January 19, 1999, issue of the **Federal Register** (64 FR 2799).

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 individual allotment base for the applicable class of spearmint oil.

Sections 985.50, 985.51, and 985.52 provide the Committee authorization to consider and recommend salable quantities and allotment percentages for each class of spearmint oil for an ensuing marketing year. Section 985.51(b) provides the authority for the Committee to recommend that an increase in the salable quantity and allotment percentage for either or both classes of oil be considered.

Taking into consideration the following discussion on adjustments to the Native spearmint oil salable quantity, the revised 1999–2000 marketing year salable quantity of 1,228,066 pounds will, therefore, be increased to 1,309,915 pounds.

The original total industry allotment base for Native spearmint oil for the 1999–2000 marketing year was established at 2,046,828 pounds and was revised during the year to 2,046,214 pounds to reflect a loss of 614 pounds of base due to non-production of some producers' total annual allotments. The Committee has used this revised allotment base in computing the increases to the Native spearmint oil salable quantity.

By increasing the salable quantity and allotment percentage from 1,228,066 pounds to 1,309,915 pounds, this amended interim final rule makes an additional amount of Native spearmint oil available by releasing such oil from the reserve pool. When applied to each individual producer, the additional 4 percent allotment percentage increase allows each producer to take up to an amount equal to 4 percent of their allotment base from their Native spearmint oil reserve. If a producer does not have any reserve pool oil, or has less than 4 percent of their allotment base in the reserve pool, the increase in allotment percentage will actually make less than such amount available to the market. Currently, producers receiving 8,304 pounds of additional allotment through this increase do not have any Native spearmint oil in reserve. Thus, rather than the computed 81,849 additional pounds, this action effectively makes an additional 73,545 pounds of Native spearmint oil available to the market.

The following summarizes the Committee recommendation: Factors Affecting the Amended Native Spearmint Oil Salable Quantity and Allotment Percentage

(A) Estimated 1999–2000 Allotment Base—2,046,828 pounds. This is the figure the original 1999–2000 salable quantities and allotment percentages for both classes of spearmint oil were based on.

(B) Revised 1999–2000 Allotment Base—2,046,214 pounds. This is 614 pounds less than the estimated allotment base of 2,046,828 pounds. This is less because some producers failed to produce all of their previous year's allotment.

(C) Initial 1999–2000 Allotment Percentage—55 percent. This was recommended by the Committee on October 7, 1998.

(D) Initial 1999–2000 Salable Quantity—1,125,755 pounds. This figure is 55 percent of the estimated allotment base of 2,046,828 pounds.

(E) Initial Increase in Allotment Percentage—5 percent. This was recommended by the Committee on January 13, 2000.

(F) Initial Revision of the 1999–2000 Allotment Percentage—60 percent. This figure was derived by adding the initial increase in the allotment percentage of 5 percent to the initial 1999–2000 allotment percentage of 55 percent and was effective on February 11, 2000.

(H) Initial Computed Increase in the 1999–2000 Salable Quantity—102,311 pounds. This is the product of the revised 1999–2000 allotment base of 2,046,214 and the initial 5 percent increase.

(I) Initially Revised 1999–2000 Salable Quantity—1,228,066 pounds. This figure, effective on February 11, 2000, is the sum of the initial salable quantity of 1,125,755 pounds and the initial computed increase of 102,311 pounds, and is approximately 60 percent of the estimated 1999–2000 allotment base of 2,046,214 pounds.

(J) Additional Increase in the Allotment Percentage—4 percent. This percentage increase was recommended by the Committee at its February 23, 2000, meeting.

(K) Amended 1999–2000 Allotment Percentage—64 percent. This is the sum of the initial allotment percentage of 55 percent, and the 5 and 4 percent increases.

(L) Additional Computed Increase in the 1999–2000 Salable Quantity—81,849 pounds. This is the product of the revised 1999–2000 allotment base of 2,046,214 pounds and the additional 4 percent increase in the allotment percentage.

(M) 1999–2000 Salable Quantity as Revised by this Amended Interim Final Rule—1,309,915 pounds. This figure is the sum of the revised salable quantity of 1,228,066 and the additional computed increase of 81,849 pounds, and is approximately 64 percent of the revised 1999–2000 allotment base of 2,046,214 pounds.

In making this latest recommendation, the Committee considered all available information on supply and demand. The 1999–2000 marketing year began on June 1, 1999. Handlers have indicated that with this action, the available supply of both Scotch and Native spearmint oils appears adequate to meet anticipated demand through May 31, 2000. Without the increase, the Committee believes the industry will not be able to meet market needs. As of February 23, 2000, approximately

40,966 pounds of Native spearmint oil was available for market. During the past 5 years, the average sales of Native spearmint oil from March 1 to May 31 totaled 75,586 pounds, while the average sales for the period June 1 through February 29 totaled 1,087,385 pounds. The Far West spearmint oil industry has sold approximately 1,282,150 pounds of Native spearmint oil through February 23, 2000. This action has the effect of adding 73,545 pounds of Native spearmint oil to the amount available for market, bringing the total available supply for the remainder of this marketing year up to approximately 114,511 pounds.

The Department, based on its analysis of available information, has determined that the salable quantity and allotment percentage for Native spearmint oil for the 1999–2000 marketing year should be increased to 1,309,915 and 64 percent, respectively.

This amended rule further relaxes the regulation of Native spearmint oil and will allow producers to meet market needs and improve returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 1999–2000 marketing year has been reviewed by the Department. 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 section 985.50 of the order. During its discussion of revising the 1999–2000 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) prospective production of each class of oil; (4) 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 the Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" has also been reviewed and confirmed.

This increase in the 1999–2000 marketing year Native spearmint oil salable quantity and allotment percentage allows for anticipated market needs for this class of oil. In determining anticipated market needs,

consideration by the Committee was given to historical sales, and changes and trends in production and demand.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

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 7 spearmint oil handlers subject to regulation under the marketing order and approximately 119 producers of Scotch spearmint oil and 105 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 \$5,000,000, and small agricultural producers have been defined as those whose annual receipts are less than \$500,000.

Based on the SBA's definition of small entities, the Committee estimates that 2 of the 7 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 25 of the 119 Scotch spearmint oil producers and 7 of the 105 Native spearmint oil producers would 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. Crop rotation is an essential cultural practice in the production of spearmint oil for weed, insect, and disease control. A normal spearmint oil producing operation would have enough acreage for rotation such that the total acreage required to produce the crop would be about one-third spearmint and two-thirds rotational crops. An average spearmint oil producing farm would, thus, have to have considerably more

acreage than would be planted to spearmint during any given season. To remain economically viable with the added costs associated with spearmint oil production, most spearmint oil producing farms would fall into the category of large businesses.

Small spearmint oil producers represent a minority of farming operations and are more vulnerable to market fluctuations. Such small farmers generally need to market their entire annual crop and do not have the resources 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 of stronger incomes from alternate crops which could support the operation for a period of time. Despite the advantage larger producers may have, increasing the Native salable quantity and allotment percentage will help both large and small producers by improving returns.

This rule amends an interim final rule that was published in the **Federal Register** on February 10, 2000 (65 FR 6528). That rule increased the salable quantity by 102,311 pounds from 1,125,755 pounds to 1,228,066 pounds, and the allotment percentage by 5 percent from 55 percent to 60 percent. This amended interim final rule increases the salable quantity an additional 81,849 pounds from 1,228,066 pounds to 1,309,915 pounds, and the allotment percentage an additional 4 percent from 60 percent to 64 percent for Native spearmint oil for the 1999–2000 marketing year. This rule relaxes the regulation of Native spearmint oil and will allow producers to meet market needs and improve returns.

The Committee considered alternatives to the 4 percent increase based on projections and historical data available at the meeting. Generally, spearmint oil producers and buyers attending the meeting recommended that the Native spearmint oil salable quantity be increased by at least an additional 55,000 pounds. The Committee reached its recommendation to increase the Native spearmint oil salable quantity by an additional 81,849 pounds and the allotment percentage by 4 percent after careful consideration of all available information, and believes that the level recommended will achieve the objectives sought. Without the increase, the Committee believes the industry will not be able to meet market needs. By recommending a greater increase than the market might otherwise demand, the Committee believes that any further unanticipated

demand for Native spearmint oil during the remainder of the marketing year will be satisfied.

As of February 23, 2000, approximately 40,966 pounds of Native spearmint oil was available for market. During the past 5 years, the average sales of Native spearmint oil from March 1 to May 31 totaled 75,586 pounds, while the average sales for the period June 1 through February 29 totaled 1,087,385 pounds. The Far West spearmint oil industry has sold approximately 1,282,150 pounds of Native spearmint oil through February 23, 2000. This action has the effect of adding 73,545 pounds of Native spearmint oil to the amount available for market, bringing the total available supply for the remainder of this marketing year up to approximately 114,511 pounds.

Annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. Reporting and recordkeeping requirements have remained the same for each year of regulation. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers and handlers. All reports and forms associated with this program are reviewed periodically in order to avoid unnecessary and duplicative information collection by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Finally, the Committee's meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Interested persons are also 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 the following website: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including that contained in the prior proposed and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1999-2000 marketing year, the prior interim final rule increasing the 1999-2000

marketing year Native spearmint oil salable quantity and allotment percentage, the Committee's recommendation and other available information, it is found that to revise § 985.218 to change the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a revision to the salable quantity and allotment percentage for Native spearmint oil for the 1999-2000 marketing year. A 30-day comment period is provided. Thirty days is deemed appropriate because this rule increases the quantity of Native spearmint oil that may be marketed during the marketing year ending on May 31, 2000. Additionally, the current quantity of Native spearmint oil available for market may not be adequate to satisfy market needs for the remainder of the marketing year. Any comments received will be considered prior to finalization of this rule.

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, 2000; (2) the current quantity of Native spearmint oil may be inadequate to meet demand for the remainder of the season, thus making the additional oil available as soon as is practicable is beneficial to both handlers and producers; (3) the Committee unanimously recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 30-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. Section 985.218 is amended by republishing the introductory text and revising paragraph (b) to read as follows:

**Note:** This section will not appear in the annual Code of Federal Regulations.

#### **§ 985.218 Salable quantities and allotment percentages—1999—2000 marketing year.**

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1999, shall be as follows:

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(b) Class 3 (Native) oil—a salable quantity of 1,309,915 pounds and an allotment percentage of 64 percent.

Dated: March 21, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00-7333 Filed 3-23-00; 8:45 am]

**BILLING CODE 3410-02-P**

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## **DEPARTMENT OF JUSTICE**

### **Immigration and Naturalization Service**

#### **8 CFR Parts 3, 212, 240, 245, 274a, and 299**

[INS No. 1963-98; AG Order No. 2294-2000]

**RIN 1115-AF33**

#### **Adjustment of Status for Certain Nationals of Haiti**

**AGENCY:** Immigration and Naturalization Service, Justice, and Executive Office for Immigration Review, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule implements section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA) by establishing procedures for certain nationals of Haiti who have been residing in the United States to become lawful permanent residents of this country. This rule allows them to obtain lawful permanent resident status without applying for an immigrant visa at a United States consulate abroad and waives many of the usual requirements for this benefit.

**DATES:** This final rule is effective March 24, 2000.

**FOR FURTHER INFORMATION CONTACT:** For matters relating to the Immigration and Naturalization Service: Suzy Nguyen, Adjudications Officer, Office of Adjudications, Immigration and Naturalization Service, 425 I Street NW, Room 3214, Washington, DC 20536, telephone (202) 514-5014. For matters relating to the Executive Office for