Register on February 5, 2013 (78 FR 8047). Copies of the proposed rule were also mailed or sent via facsimile to all onion handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 10-day comment period ending February 15, 2013, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: 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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this 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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because the 2012–13 fiscal period began on August 1, 2012, and the marketing order requires that the assessment rate for each fiscal period apply to all assessable onions handled during such fiscal period. In addition, the Committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 10-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

§ 959.237 Assessment rate.

On and after August 1, 2012, an assessment rate of $0.03 per 50-pound equivalent is established for South Texas onions.


David R. Shipman,
Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. Nos. AMS–FV–11–0088; FV12–985–1A 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) and Class 3 (Native) Spearmint Oil for the 2012–2013 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 that revised the quantity of Class 1 (Scotch) and Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2012–2013 marketing year under the Far West spearmint oil marketing order. The interim rule increased the Scotch spearmint oil salable quantity from 782,413 pounds to 2,622,115 pounds and the allotment percentage from 38 percent to 128 percent. In addition, the interim rule increased the Native spearmint oil salable quantity from 1,162,473 pounds to 1,348,270 pounds and the allotment percentage from 50 percent to 58 percent. This change is expected to moderate extreme fluctuations in the supply and price of spearmint oil. Also, this change will help maintain stability in the Far West spearmint oil market.


The handling of spearmint oil produced in the Far West is regulated by the order and is administered locally by the Spearmint Oil Administrative Committee (Committee). Under the authority of the order, salable quantities and allotment percentages were established for both Scotch and Native spearmint oil for the 2012–2013 marketing year. However, early in the 2012–2013 marketing year, it became evident to the Committee and the industry that demand for spearmint oil was greater than previously projected and an intra-seasonal increase in the salable quantity and allotment percentage for each class of oil was warranted.

Therefore, this rule continues in effect the action that increased the Scotch spearmint oil salable quantity from 782,413 pounds to 2,622,115 pounds, and allotment percentage from 38 percent to 128 percent. In addition, this rule continues in effect the action that increased the Native spearmint oil salable quantity from 1,162,473 pounds to 1,348,270 pounds, and allotment percentage from 50 percent to 58 percent.

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 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 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, and approximately 32 producers of Scotch spearmint oil and approximately 88 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 eight of the 32 Scotch spearmint oil producers and 22 of the 88 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 use of volume control regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of oversupplying these markets. Volume control is believed to have little or no effect on consumer prices of products containing spearmint oil and likely does not impact retail sales of such products. Without volume control, producers would not be limited in the production and marketing of spearmint oil. Under those conditions, the spearmint oil market 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 would not be limited in the production of spearmint oil and marketing of spearmint oil. Without volume control, producers and consumers 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 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 continues in effect the action that increased the quantity of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2012–2013 marketing year, which ends on May 31, 2013. The Scotch spearmint oil salable quantity was increased from 782,413 pounds to 2,622,115 pounds and the allotment percentage was increased from 38 percent to 128 percent. Additionally, the Native spearmint oil salable quantity was increased from 1,162,473 pounds to 1,348,270 pounds and the allotment percentage was increased from 50 percent to 58 percent.

The Committee reached its recommendation to increase the salable quantity and allotment percentage for both Scotch and Native spearmint oil after careful consideration of all available information, believing that the increased volume regulation levels it recommended will achieve the objectives sought. With the increase, the industry will be able to satisfactorily meet the current market demand for both classes of spearmint oil. This rule amends the salable quantities and allotment percentages previously established in § 985.231. 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), and the E-Gov Act (44 U.S.C. 3510), the Final Regulatory Flexibility Analysis is provided in §§ 985.50, 985.51, and 985.52 of the order. This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 3510).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the Federal Register (77 FR 76341, December 28, 2012) 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 77 FR 76341 on December 28, 2012, is adopted as a final rule, without change.


David R. Shipman,
Administrator, Agricultural Marketing Service.