

**PART 185—PROGRAM FRAUD CIVIL  
REMEDIES: CIVIL MONETARY  
PENALTY INFLATION ADJUSTMENT**

■ 1. The authority citation for part 185 continues to read:

**Authority:** 28 U.S.C. 2461 note.

**§ 185.103 [Amended]**

■ 2. Section 185.103 is amended as follows:

■ a. In paragraph (a) introductory text, revise “\$10,781” to read “\$11,181”.

■ b. In paragraph (f)(2), revise “\$10,781” to read “\$11,181”.

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**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 985**

[Doc. No. AMS–SC–17–0073; SC18–985–1  
FR]

**Marketing Order Regulating the  
Handling of Spearmint Oil Produced in  
the Far West; Salable Quantities and  
Allotment Percentages for the 2018–  
2019 Marketing Year**

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to establish salable quantities and allotment percentages of Class 1 (Scotch) and Class 3 (Native) spearmint oil for the 2018–2019 marketing year. This rule also removes references to past volume regulation no longer in effect.

**DATES:** Effective August 23, 2018.

**FOR FURTHER INFORMATION CONTACT:** Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: [Barry.Broadbent@ams.usda.gov](mailto:Barry.Broadbent@ams.usda.gov) or [GaryD.Olson@ams.usda.gov](mailto:GaryD.Olson@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as 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 Committee locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule establishes quantities and percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil for the 2018–2019 marketing year, which began on June 1, 2018.

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 USDA 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, USDA 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 USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to §§ 985.50, 985.51, and 985.52, the Order requires the

Committee to meet each year to consider supply and demand of spearmint oil and a marketing policy for the ensuing marketing year. When such considerations indicate a need to establish or maintain stable market conditions through volume regulation, the Committee recommends salable quantity limitations and producer allotments to regulate the quantity of Far West spearmint oil available to the market.

According to § 985.12, “salable quantity” is the total quantity of each class of oil that handlers may purchase from, or handle on behalf of, producers during a given marketing year. The total industry allotment base is the aggregate of all allotment bases held individually by producers as prescribed under § 985.53(d)(1). The total allotment base is generally revised each year on June 1 due to producer base being lost because of the bona fide effort production provision of § 985.53(e). The allotment percentage for each class of spearmint oil is derived by dividing the salable quantity by the total industry allotment base for that same class of oil. The allotment percentage is the percentage used to calculate each producer’s prorated share of the salable quantity or their “annual allotment,” as defined in § 985.13.

The Committee met on October 25, 2017, to consider its marketing policy for the 2018–2019 marketing year. At that meeting, the Committee determined that, based on overall market and supply conditions, volume regulation for Classes 1 and 3 (Scotch and Native, respectively) spearmint oil is necessary. With a unanimous vote, the Committee recommended the establishment of a salable quantity and allotment percentage for Class 1 (Scotch) and Class 3 (Native) spearmint oil of 760,660 pounds and 35 percent, and 1,307,947 pounds and 53 percent, respectively. The Committee also unanimously set its 2018–2019 marketing year trade demand estimate for Far West Scotch spearmint oil at 850,000 pounds, and for Far West Native spearmint oil at 1,306,605 pounds. Salable quantities and allotment percentages have been placed into effect each season since the Order’s inception in 1980.

**Class 1 (Scotch) Spearmint Oil**

The Committee’s recommended 2018–2019 marketing year salable quantity and allotment percentage for Far West Scotch spearmint oil represent a decrease from the previous year’s volume restrictions. The 2018–2019 marketing year salable quantity of 760,660 pounds is 13,985 pounds less than the 2017–2018 salable quantity of

774,645 pounds. The allotment percentage, at 35 percent for the 2018–2019 marketing year, is slightly less than the 36 percent in effect the previous year. The total estimated allotment base for the coming marketing year is estimated at 2,173,315 pounds. This figure represents a one-percent increase over the 2017–2018 total allotment base of 2,151,797.

The Committee considered several factors in making its recommendation, including the current and projected supply, estimated future demand, production costs, and producer prices. The Committee's recommendations also account for declining acreage of Far West Scotch spearmint oil, decreasing consumer demand, existing carry-in and reserve pool volume, and increasing production in competing markets.

According to the Committee, as costs of production have increased, many producers have forgone new plantings. This has resulted in a significant decline in production of Far West Scotch spearmint oil over past years. Production has decreased from 1,229,258 pounds produced in 2015, to 1,113,346 pounds produced in 2016 and, finally, to an estimated 817,857 pounds for 2017.

Industry reports also indicate that the relatively low trade demand for Far West spearmint oil is the result of decreased consumer demand for spearmint-flavored products, especially chewing gum in China and India. Far West Scotch spearmint oil sales have averaged 941,140 pounds per year over the last three years and 966,875 pounds over the last five years. For the 2017–2018 crop, the Committee estimated trade demand at 800,000 pounds.

In addition, increasing production of spearmint oil in competing markets, most notably Canada and the U.S. Midwest, has also put downward pressure on the Far West Scotch market.

Given the general decline in demand and anticipated market conditions for the coming year, the Committee decided it was prudent to anticipate 2018–2019 trade demand at 850,000 pounds. Should the established volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases, as has been implemented in previous marketing years.

The Committee calculated the minimum salable quantity of Far West Scotch spearmint oil that will be required during the 2018–2019 marketing year by subtracting the estimated salable carry-in on June 1, 2018, (215,757) from the estimated trade demand (850,000), resulting in 634,243

pounds. This salable quantity represents the minimum amount of Scotch spearmint oil that the Committee expects to be needed to satisfy estimated demand for the coming year. The Committee then factored in a projected 2019–2020 carry-in of 126,417 pounds to arrive at a recommended 2018–2019 salable quantity of 760,660 pounds.

The salable quantity of 760,660 pounds, combined with an estimated 215,757 pounds of salable quantity (salable carry-in) from the previous year, yields a total available supply of 976,417 pounds Far West Scotch spearmint oil for the 2018–2019 marketing year. This amount will adequately supply the Committee's estimated market demand of 850,000 pounds for the 2018–2019 marketing year and is expected to result in a desired 2019–2020 carry-in of 126,417 pounds.

Salable carry-in is the primary measure of excess spearmint oil supply under the Order, as it represents overproduction in prior years that is currently available to the market without restriction. Under volume regulation, spearmint oil that is designated as salable continues to be available to the market until it is sold and may be marketed at any time at the discretion of the owner. Salable quantities established under volume regulation over the last three seasons have exceeded sales, leading to a gradual build of Far West Scotch spearmint oil salable carry-in.

The Committee estimates that there will be 215,757 pounds of salable carry-in of Scotch spearmint oil on June 1, 2018. If current market conditions are maintained and the Committee's projections are correct, salable carry-in will decrease to 126,417 pounds at the beginning of the 2019–2020 marketing year. This level is slightly below the quantity that the Committee considers favorable (generally 150,000 pounds). However, the Committee believes that this lower salable carry-in will be manageable given the expected production level of Far West Scotch spearmint oil in the current marketing year and the quantity of oil held in the reserve pool.

Spearmint oil held in reserve is oil that has been produced in excess of a producer's marketing year allotment. Oil held in the reserve pool is a less reliable indicator of excess supply as it is not available to the market in the current marketing year without an increase in the salable quantity and allotment percentage.

Far West Scotch spearmint oil held in the reserve pool, which was completely depleted at the beginning of the 2014–

2015 marketing year, has also been gradually increasing over the past four years. The Committee reported that there were 71,088 pounds of Far West Scotch spearmint oil held in the reserve pool as of May 31, 2017. The Committee estimates the reserve pool will increase to 114,274 pounds by May 31, 2018. This quantity of reserve pool oil should be an adequate buffer to supply the market, if necessary, if the industry experiences an unexpected increase in demand.

The Committee recommended an allotment percentage of 35 percent for the 2018–2019 marketing year. During its October 25, 2017, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (634,243 pounds) by the total estimated allotment base (2,173,315 pounds), resulting in 29.2 percent. However, producers and handlers at the meeting indicated that the computed percentage (29.2 percent) might not adequately supply the potential 2018–2019 Scotch spearmint oil market demand or may result in inadequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the targeted allotment percentage to 35 percent. The total estimated allotment base (2,173,315 pounds) for the 2018–2019 marketing year multiplied by the recommended salable allotment percentage (35 percent) yields 760,660 pounds, which is also the recommended salable quantity for the 2018–2019 marketing year.

The 2018–2019 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2018: 215,757 pounds.* This figure is the difference between the 2017–2018 marketing year total available supply of 1,015,757 pounds and the 2017–2018 marketing year estimated trade demand of 800,000 pounds.

(B) *Estimated trade demand of Far West Scotch spearmint oil for the 2018–2019 marketing year: 850,000 pounds.* This figure was established at the Committee meeting held on October 25, 2017.

(C) *Salable quantity of Scotch spearmint oil required from the 2018–2019 marketing year production: 634,243 pounds.* This figure is the difference between the estimated 2018–2019 marketing year trade demand (850,000 pounds) and the estimated carry-in on June 1, 2018 (215,757 pounds). This salable quantity represents the minimum amount of Scotch spearmint oil production that

may be needed to satisfy estimated demand for the coming year.

(D) *Total estimated allotment base of Scotch spearmint oil for the 2018–2019 marketing year: 2,173,315 pounds.* This figure represents a one-percent increase over the 2017–2018 marketing year total actual allotment base of 2,151,797 pounds as prescribed in § 985.53(d)(1). The one-percent increase equals 21,518 pounds of Scotch spearmint oil. This total estimated allotment base is generally revised each year on June 1 in accordance with § 985.53(e).

(E) *Computed Scotch spearmint oil allotment percentage for the 2018–2019 marketing year: 29.2 percent.* This percentage is computed by dividing the minimum required salable quantity (634,243 pounds) by the total estimated allotment base (2,173,315 pounds).

(F) *Recommended Scotch spearmint oil allotment percentage for the 2018–2019 marketing year: 35 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (29.2 percent) and input from producers and handlers at the October 25, 2017, meeting. The recommended 35 percent allotment percentage reflects the Committee's belief that the computed percentage (29.2 percent) may not adequately supply anticipated 2018–2019 Scotch spearmint oil market demand.

(G) *Recommended Scotch spearmint oil salable quantity for the 2018–2019 marketing year: 760,660 pounds.* This figure is the product of the recommended salable allotment percentage (35 percent) and the total estimated allotment base (2,173,315 pounds) for the 2018–2019 marketing year.

(H) *Estimated total available supply of Scotch spearmint oil for the 2018–2019 marketing year: 976,417 pounds.* This figure is the sum of the 2018–2019 recommended salable quantity (760,660 pounds) and the estimated carry-in on June 1, 2018 (215,757 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage for Scotch spearmint oil will adequately meet demand, will result in a reasonable carry-in for the following year, and will contribute to orderly marketing conditions as intended under the Order.

### **Class 3 (Native) Spearmint Oil**

The Committee recommended a Native spearmint oil salable quantity of 1,307,947 pounds and an allotment percentage of 53 percent for the 2018–2019 marketing year. These figures are, respectively, 206,955 pounds and 9 percentage points less than the final

levels established for the 2017–2018 marketing year after an intra-seasonal increase.

The Committee utilized handlers' anticipated sales estimates of Far West Native spearmint oil for the coming year, historical and current Native spearmint oil production, inventory statistics, and international market data obtained from consultants for the spearmint oil industry to arrive at these recommendations.

The Committee anticipates that 2017 production will total 1,462,976 pounds, down from 1,694,684 pounds in 2016. Committee figures show that declining production is the result of a 1,107-acre year-over-year reduction in total Native spearmint acres, and an average yield per acre drop from 166.2 pounds per acre in 2016 to 160.9 pounds per acre in 2017. Conversely, sales of Native spearmint oil have been increasing at about a 4 percent rate from the 2015–2016 season through the 2017–2018 marketing year.

The Committee expects that 57,968 pounds of salable Native spearmint oil from prior years will be carried into the 2018–2019 marketing year. This amount is down from the estimated 143,011 pounds of salable Native spearmint oil carried into the 2017–2018 marketing year, and 142,657 pounds carried into the 2016–2017 marketing year.

Further, the Committee estimates that there will be 1,237,237 pounds of Native spearmint oil in the reserve pool at the beginning of the 2018–2019 marketing year. This figure is 142,578 pounds higher than the quantity of reserve pool oil held by producers the previous year and is in line with the gradual increase in reserves over the past three marketing years.

Exports of Far West Native spearmint oil, as of July 2017, are above their five-year average. Canada, India, and China are the largest destination markets for Far West Native spearmint oil exports. As a common practice, large end users often buy spearmint oil to build reserve stocks when prices are low as a hedge against future price increases. End users of Native spearmint oil are expected to continue to rely on Far West production as their main source of high quality Native spearmint oil, but demand may be at lower quantities moving forward in response to long-term market factors. A sharp spike in demand for Far West Native spearmint oil was experienced by handlers late in the 2017–2018 marketing year, spurred by the popularity of a new product in the market. This sharp spike in demand caused the remaining available 2017–2018 salable quantity of Native oil to be depleted.

The Committee estimates the 2018–2019 marketing year Native spearmint oil trade demand to be 1,306,605 pounds. This figure is based on input provided by producers at six Native spearmint oil production area meetings held in mid-October 2017, as well as estimates provided by handlers and other meeting participants at the October 25, 2017, meeting. This figure represents an increase of 56,605 pounds from the previous year's initial estimate. The average estimated trade demand for Native spearmint oil from the six production area grower's meetings was 1,349,379 pounds, whereas the handlers' estimates ranged from 1,350,000 to 1,500,000 pounds. The average of Far West Native spearmint oil sales over the last three years is also 1,305,605 pounds. However, the quantity marketed over the most recent full marketing year, 2016–2017, was 1,287,691 pounds. The Committee chose to be slightly conservative in the establishment of its trade demand estimate for the 2018–2019 marketing year to avoid oversupplying the market.

The estimated 2018–2019 carry-in of 57,968 pounds of Native spearmint oil plus the recommended salable quantity of 1,307,947 pounds results in an estimated total available supply of 1,365,915 pounds of Native spearmint oil during the 2018–2019 marketing year. With the corresponding estimated trade demand of 1,306,605 pounds, the Committee projects that 59,310 pounds of Native spearmint oil will be carried into the 2019–2020 marketing year, resulting in a slight increase of 1,342 pounds year-over-year. The Committee estimates that there will be 1,237,237 pounds of Native spearmint oil held in the reserve pool at the beginning of the 2018–2019 marketing year. Should the industry experience an unexpected increase in trade demand, Native spearmint oil in the reserve pool could be released to satisfy that demand.

The Committee recommended an allotment percentage of 53 percent for the 2018–2019 marketing year. During its October 25, 2017, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (1,248,637 pounds) by the total estimated allotment base (2,467,825 pounds), resulting in 50.6 percent. However, producers and handlers at the meeting expressed that the computed percentage (50.6 percent) may not adequately supply the potential 2018–2019 Native spearmint oil market demand or result in adequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the recommended allotment percentage

to 53 percent. The total estimated allotment base (2,467,825 pounds) for the 2018–2019 marketing year multiplied by the recommended salable allotment percentage (53 percent) yields 1,307,947 pounds, which is also the recommended salable quantity for the upcoming marketing year.

The 2018–2019 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2018: 57,968 pounds.* This figure is the difference between the revised 2017–2018 marketing year total available supply of 1,657,968 pounds and the revised 2017–2018 marketing year estimated trade demand of 1,600,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2018–2019 marketing year: 1,306,605 pounds.* This estimate was established by the Committee at the October 25, 2017, meeting.

(C) *Salable quantity of Native spearmint oil required from the 2018–2019 marketing year production: 1,248,637 pounds.* This figure is the difference between the estimated 2018–2019 marketing year estimated trade demand (1,306,605 pounds) and the estimated carry-in on June 1, 2018 (57,968 pounds). This is the minimum amount of Native spearmint oil that the Committee believes will be required to meet the anticipated 2018–2019 marketing year trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2018–2019 marketing year: 2,467,825 pounds.* This figure represents a one-percent increase over the 2017–2018 total actual allotment base of 2,443,391 pounds as prescribed in § 985.53(d)(1). The one-percent increase equals 24,434 pounds of Native spearmint oil. This estimate is generally revised each year on June 1, due to producer base being lost because of the bona fide effort production provisions of § 985.53(e).

(E) *Computed Native spearmint oil allotment percentage for the 2018–2019 marketing year: 50.6 percent.* This percentage is calculated by dividing the required salable quantity (1,248,637 pounds) by the total estimated allotment base (2,467,825 pounds) for the 2018–2019 marketing year.

(F) *Recommended Native spearmint oil allotment percentage for the 2018–2019 marketing year: 53 percent.* This is the Committee's recommendation based on the computed allotment percentage (50.6 percent) and input from producers and handlers at the October 25, 2017, meeting. The recommended 53 percent allotment percentage is also based on

the Committee's belief that the computed percentage (50.6 percent) may not adequately supply the potential market for Native spearmint oil in the 2018–2019 marketing year.

(G) *Recommended Native spearmint oil 2018–2019 marketing year salable quantity: 1,307,947 pounds.* This figure is the product of the recommended allotment percentage (53 percent) and the total estimated allotment base (2,467,825 pounds). After completely depleting the remaining salable quantity for the 2017–2018 marketing year, to prevent this from happening again, the Committee recommended that the 2018–2019 salable quantity be set at a level slightly higher than the estimated trade demand for the same year (1,306,605 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2018–2019 marketing year: 1,365,915 pounds.* This figure is the sum of the 2018–2019 recommended salable quantity (1,307,947 pounds) and the estimated carry-in on June 1, 2018 (57,968 pounds).

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 760,660 pounds and 35 percent, and 1,307,947 pounds and 53 percent, respectively, match the available supply of each class of spearmint oil to the estimated demand of each, thus avoiding extreme fluctuations in inventories and prices. This volume regulation final rule is similar to regulations issued in prior seasons.

The salable quantities established herein are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity. The Order contains a provision in § 985.51 for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, on December 1 of each year, producers who have not transferred their excess spearmint oil to other producers must place their excess spearmint oil production into the reserve pool to be released in the future in accordance with market needs and under the Committee's direction.

In conjunction with the issuance of this rule, USDA has reviewed the Committee's marketing policy statement

for the 2018–2019 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, meets the requirements of §§ 985.50 and 985.51.

The establishment of the salable quantities and allotment percentages will allow for adequate supply to meet anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This rule also provides producers with information on the amount of spearmint oil that should be produced during the 2018–2019 growing season to meet anticipated market demand.

#### Final Regulatory Flexibility Act

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 approximately 43 producers and 94 producers of Scotch and Native spearmint oil, respectively, in the regulated production area and approximately seven spearmint oil handlers subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil range from \$15.50 to \$18.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2016 U.S. season average spearmint oil grower price per pound was \$17.40. Multiplying \$17.40 per pound by 2016–17 spearmint oil utilization of 2,168,257 million pounds yields a crop value estimate of about \$37.7 million. Total 2016–17 spearmint oil utilization, reported by the Committee, is 958,711 pounds and 1,209,546 pounds for Scotch and Native spearmint oil, respectively.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the \$17.40 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 38 of the 43 Scotch spearmint oil producers and 88 of the 94 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Multiplying 1.20 by the 2016 producer price of \$17.40 yields a handler f.o.b. price per pound estimate of \$20.88.

Multiplying this handler f.o.b price by spearmint oil utilization of 2,168,257 pounds results in an estimated handler-level spearmint oil value of \$45.3 million. Dividing this figure by the number of handlers (7) yields estimated average annual handler receipts of about \$6.5 million, which is below the SBA threshold for small agricultural service firms.

Using confidential data on pounds handled by each handler, and the abovementioned handler price per pound, the Committee reported that it is likely that at least two of the seven handlers had 2016–2017 marketing year spearmint oil sales value that exceeded the SBA threshold.

Therefore, in view of the foregoing, the majority of producers and handlers of spearmint oil may be classified as small entities.

This final rule establishes the quantity of spearmint oil produced in the Far West, by class, which handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year. The Committee recommended this action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased or handled during the marketing year through volume regulations allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this action is provided in §§ 985.50, 985.51, and 985.52.

The Committee estimated trade demand for the 2018–2019 marketing year for both classes of oil at 2,156,605

pounds and expects that the combined salable carry-in will be 273,725 pounds. The combined required salable quantity is 1,882,880 pounds. Under volume regulation, total sales of spearmint oil by producers for the 2018–2019 marketing year will be held to 2,342,332 pounds (the recommended salable quantity for both classes of spearmint oil of 2,068,607 pounds plus 273,725 pounds of carry-in). This total available supply of 2,342,332 pounds should be more than adequate to supply the 2,156,605 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2017, the total reserve pool for both classes of spearmint oil stood at 1,067,138 pounds. Furthermore, that quantity is expected to rise over the course of the 2017–2018 marketing year. Should trade demand increase unexpectedly during the 2018–2019 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2018–2019 marketing year producer allotments are based, are 35 percent for Scotch spearmint oil and 53 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels, and could produce and sell unrestricted quantities of spearmint oil. The USDA econometric model estimated that the season average producer price per pound (from both classes of spearmint oil) would decline about \$1.90 per pound because of the higher quantities of spearmint oil that would be produced and marketed without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in 2018–2019 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume regulation is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations established by this rule for both classes of spearmint oil. The Committee discussed and rejected the idea of not regulating any volume for either class of spearmint oil because of the severe, price-depressing effects that would likely occur without volume regulation. The Committee also discussed and considered salable

quantities and allotment percentages that were above and below the levels that were ultimately recommended for both classes of spearmint oil. Ultimately, the action taken by the Committee was to decrease the salable quantity and allotment percentage for Class 1 (Scotch) spearmint oil, and to increase the salable quantity and allotment percentage Class 3 (Native) spearmint oil from the 2017–2018 marketing year levels.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (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) the prospective production of each class of oil; (4) the 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.

Based on its review, the Committee believes that the salable quantities and allotment percentages established herein will achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the Order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the Order's inception. The salable quantities and allotment percentages established by this final rule are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2018–2019 and future marketing years.

Costs to producers and handlers, large and small, resulting from this final rule are expected to be offset by the benefits derived from a more stable market and increased returns. The benefits of this rule are expected to be equally available to all producers and handlers regardless of their size. In addition, 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 October 25, 2017, 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 OMB and assigned OMB No. 0581-0178, Specialty Crops Program. No changes are necessary in those requirements as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule establishes salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil and Class 3 (Native) spearmint oil produced in the Far West during the 2018-2019 marketing year. Accordingly, this rule imposes no additional reporting or recordkeeping requirements on either small or large Far West spearmint oil producers or 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. As mentioned in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on April 6, 2018 (83 FR 14766). Copies of the proposed rule were also mailed or sent via facsimile to all Far West spearmint oil handlers. Finally, the proposal was made available through the internet by USDA and the Office of the **Federal Register**. A 60-day comment period ending June 5, 2018, 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: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower 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, 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—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. Revise § 985.233 to read as follows:

#### **§ 985.233 Salable quantities and allotment percentages.**

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2018, shall be as follows:

- (a) Class 1 (Scotch) oil—a salable quantity of 760,660 pounds and an allotment percentage of 35 percent.
- (b) Class 3 (Native) oil—a salable quantity of 1,307,947 pounds and an allotment percentage of 53 percent.

#### **§§ 985.234 and 985.235 [Removed]**

- 3. Remove §§ 985.234 and 985.235.

Dated: July 19, 2018.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2018-15788 Filed 7-23-18; 8:45 am]

**BILLING CODE 3410-02-P**

## **SECURITIES AND EXCHANGE COMMISSION**

### **17 CFR Part 230**

**[Release No. 33-10520; File No. S7-17-18]**

**RIN 3235-AM39**

#### **Exempt Offerings Pursuant to Compensatory Arrangements**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission is adopting an amendment to its regulations under the Securities Act of 1933 (the "Securities Act"), which provide an exemption from registration for securities issued by non-

reporting companies pursuant to compensatory arrangements. As mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act (the "Act"), the amendment revises a rule to increase from \$5 million to \$10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors.

#### **DATES:**

*Effective date:* July 23, 2018.

*Comment date:* Comments regarding the collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 should be received on or before August 23, 2018.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/final.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-xx-18 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number S7-17-18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/final.shtml>). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

#### **FOR FURTHER INFORMATION CONTACT:**

Anne M. Krauskopf, Senior Special Counsel, and Adam F. Turk, Special Counsel, Office of Chief Counsel, Division of Corporation Finance, at (202) 551-3500.

**SUPPLEMENTARY INFORMATION:** We are adopting an amendment to 17 CFR