



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS-SC-19-0096; SC20-985-1 PR]

**Marketing Order Regulating the Handling of Spearmint Oil
Produced in the Far West; Salable Quantities and Allotment
Percentages for the 2020-2021 Marketing Year**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to establish salable quantities and producer allotments of Class 1 (Scotch) and Class 3 (Native) spearmint oil produced in Washington, Idaho, Oregon, and designated parts of Nevada and Utah (the Far West) for the 2020-2021 marketing year.

DATES: Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400

Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or internet:

<https://www.regulations.gov>. Comments should reference the document 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 or can be viewed at:

<https://www.regulations.gov>. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

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@usda.gov or GaryD.Olson@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@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed 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 proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. The Order now in effect states that salable quantities and producer allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish quantities and percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil for the 2020-2021 marketing year, which begins on June 1, 2020.

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. Such 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 to adopt a marketing policy for the ensuing marketing year. When such considerations indicate a need to establish or to 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 (Scotch or Native) 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 in § 985.53(d) (1). The total allotment base is revised each year on June 1 due to producer base being lost because of the "bona fide effort" production provision of § 985.53(e).

Each producer's prorated share of the salable quantity of each class of oil, or their "annual allotment" as defined in § 985.13, is calculated by using an allotment percentage. The percentage is derived by dividing the

salable quantity by the total industry allotment base for that same class of oil.

The Committee met on October 16, 2019, to consider its marketing policy for the 2020-2021 marketing year. At that meeting, the Committee determined that, based on the current market and supply conditions, volume regulation for both classes of oil would be necessary. With a 7-1 vote, the Committee recommended a salable quantity and allotment percentage for Scotch spearmint oil of 838,404 pounds and 38 percent. The member voting in opposition to the recommendation favored volume regulation, but at a level closer to 30 percent. The Committee voted unanimously on its recommended salable quantity and allotment percentage for Native spearmint oil of 1,230,531 pounds and 49 percent.

This proposed action would establish the amount of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2020-2021 marketing year, which begins on June 1, 2020. Salable quantities and allotment percentages have been in effect each season since the Order's inception in 1980.

Scotch Spearmint Oil

The Committee's recommended 2020-2021 marketing year salable quantity and allotment percentage for Scotch

spearmint oil represent an increase from the previous year's levels. The proposed 2020-2021 marketing year salable quantity of 838,404 pounds is 6,323 pounds more than the 2019-2020 marketing year salable quantity of 832,081 pounds. The allotment percentage, recommended at 38 percent for the 2020-2021 marketing year, is the same as the percentage in effect the previous year. The total estimated allotment base for the coming marketing year is estimated at 2,206,325 pounds. This figure represents a one-percent increase over the 2019-2020 marketing year total allotment base of 2,184,480.

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

According to the Committee, as costs of production have increased, many producers have forgone new plantings of Scotch spearmint. This has resulted in a significant decline in production of Scotch spearmint oil over past years. Production has decreased from 1,113,346 pounds produced in 2016 to an estimated 567,623 pounds produced in

2019.

Industry reports also indicate that trade demand for Far West Scotch spearmint oil has decreased over the past five years. Scotch spearmint oil sales have averaged 832,522 pounds per year over the last five years, while sales have averaged just 720,992 pounds over the last three years. For the 2020-2021 marketing year, the Committee estimates trade demand to be 750,000 pounds, a little higher than the rolling three-year average. In addition to declining spearmint oil demand, increasing production of Scotch spearmint oil in competing markets, most notably Canada and the U.S. Midwest, has put additional downward pressure on the Far West Scotch spearmint oil market.

Given the general decline in demand and anticipated market conditions for the coming year, the Committee decided it was prudent to estimate that the Scotch spearmint oil trade demand for the 2020-2021 marketing year trade would be 750,000 pounds, 55,000 pounds lower than the prior year. Should the proposed volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases, as it has in previous marketing years.

The Committee calculated the minimum salable quantity of Scotch spearmint oil that would be required during the

2020-2021 marketing year (471,029 pounds) by subtracting the estimated salable carry-in on June 1, 2020, (278,971) from the estimated trade demand (750,000). This minimum salable quantity represents the estimated minimum amount of Scotch spearmint oil that would be needed to satisfy estimated trade demand for the coming year. To ensure that the market would be fully supplied, the Committee recommended a 2020-2021 marketing year salable quantity of 838,404 pounds. The recommended salable quantity of 838,404 pounds, combined with an estimated 278,971 pounds of salable quantity carried in from the previous year, would yield a total available supply of 1,117,375 pounds Scotch spearmint oil for the 2020-2021 marketing year, and would leave an estimated 367,375 pounds of salable oil to carry into the 2021-2022 marketing year.

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 four seasons have exceeded sales,

leading to a gradual build of Scotch spearmint oil salable carry-in.

The Committee estimates that there will be 278,971 pounds of salable carry-in of Scotch spearmint oil on June 1, 2020. If current market conditions are maintained and the Committee's projections are correct, salable carry-in would increase to 367,375 pounds at the beginning of the 2021-2022 marketing year. This level would be above the quantity that the Committee generally considers favorable (150,000 pounds). However, the Committee anticipates that this higher salable carry-in would be manageable given the expected declining production levels of Scotch spearmint oil. The Committee believes that, given the current economic conditions in the Scotch spearmint oil industry, some Scotch spearmint oil producers will not produce enough oil in the 2020-2021 marketing year to fill all of their base allotment. Therefore, it is anticipated that the actual quantity of Scotch spearmint oil carried into the next marketing year will be less than the quantity calculated above.

Spearmint oil held in reserve is oil that has been produced in excess of a producer's marketing year allotment and is not available to the market in the current marketing year without an increase in the salable quantity and

allotment percentage. The oil held in the reserve pool is another indicator of excess supply. Scotch spearmint oil held in the reserve pool, which was completely depleted at the beginning of the 2014-2015 marketing year, has been gradually increasing over the past five years. The Committee reported that 132,984 pounds of Scotch spearmint oil were held in the reserve pool as of May 31, 2019. The Scotch spearmint oil reserve is expected to be about the same at the end of the 2019-2020 marketing year. 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 a producer allotment percentage of 38 percent for the 2020-2021 marketing year for Scotch spearmint oil. During its October 16, 2019, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (471,029 pounds) by the total estimated allotment base (2,206,325 pounds), resulting in 21.3 percent. However, producers and handlers at the meeting indicated that the computed percentage (21.3 percent) might not adequately supply the potential 2020-2021 Scotch spearmint oil market demand and may also result in inadequate carry-in for the subsequent marketing year. After deliberation,

the Committee increased the recommended allotment percentage to 38 percent. The total estimated allotment base (2,206,325 pounds) for the 2020-2021 marketing year, multiplied by the recommended salable allotment percentage (38 percent), yields 838,404 pounds, which is the recommended salable quantity for the 2020-2021 marketing year.

The 2020-2021 marketing year computational data for the Committee's recommendations is detailed below.

(A) Estimated carry-in of Scotch spearmint oil on June 1, 2020: 278,971 pounds. This figure is the difference between the 2019-2020 marketing year total available supply of 1,028,971 pounds and the 2019-2020 marketing year estimated trade demand of 750,000 pounds (revised down from the original estimate of 805,000 pounds).

(B) Estimated trade demand of Scotch spearmint oil for the 2020-2021 marketing year: 750,000 pounds. This figure was established at the Committee meeting held on October 16, 2019.

(C) Salable quantity of Scotch spearmint oil required from the 2020-2021 marketing year production: 471,029 pounds. This figure is the difference between the estimated 2020-2021 marketing year trade demand (750,000

pounds) and the estimated carry-in on June 1, 2020 (278,971 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 Scotch spearmint oil allotment base for the 2020-2021 marketing year: 2,206,325 pounds.

This figure represents a one-percent increase over the 2019-2020 total actual allotment base of 2,184,480 pounds, as prescribed by § 985.53(d)(1). The one-percent increase equals 21,845 pounds. This total estimated allotment base is revised each year on June 1 in accordance with § 985.53(e).

(E) Computed Scotch spearmint oil allotment percentage for the 2020-2021 marketing year: 21.3 percent.

This percentage is computed by dividing the minimum required salable quantity (471,029 pounds) by the total estimated allotment base (2,206,325 pounds).

(F) Recommended Scotch spearmint oil allotment percentage for the 2020-2021 marketing year: 38 percent.

This is the Committee's recommendation and is based on the computed allotment percentage (21.3 percent) and input from producers and handlers at the October 16, 2019, meeting. The recommended 38 percent allotment percentage reflects the Committee's belief that the computed percentage (21.3

percent) may not adequately supply the anticipated 2020-2021 marketing year Scotch spearmint oil market demand.

(G) Recommended Scotch spearmint oil salable quantity for the 2020-2021 marketing year: 838,404 pounds. This figure is the product of the recommended salable allotment percentage (38 percent) and the total estimated allotment base (2,206,325 pounds) for the 2020-2021 marketing year.

(H) Estimated total available supply of Scotch spearmint oil for the 2020-2021 marketing year: 1,117,375 pounds. This figure is the sum of the 2020-2021 marketing year recommended salable quantity (838,404 pounds) and the estimated carry-in on June 1, 2020 (278,971 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage would adequately satisfy trade demand, would result in a reasonable carry-in for the following year, and would contribute to the orderly marketing of Scotch spearmint oil.

Native Spearmint Oil

The Committee recommended a Native spearmint oil salable quantity of 1,230,531 pounds and an allotment percentage of 49 percent for the 2020-2021 marketing year. These figures are, respectively, 161,918 pounds and 7

percentage points lower than the levels established for the 2019-2020 marketing year.

The Committee utilized handlers' anticipated sales estimates of 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 2020 production will total 1,493,686 pounds, similar to last year's production but down from 1,694,684 pounds produced in 2016. Committee figures show that total Native spearmint acres remained relatively static and that the estimated yield, at 165.7 pounds per acre, was up from 160.9 pounds per acre in 2017. Sales of Native spearmint oil for the 2017-2018 marketing year spiked to 1,565,515 pounds. Sales for the current marketing year have cooled a bit, but the Committee still estimates sales through the 2019-2020 marketing year of 1,330,000 pounds, which is near the 7-year average.

The Committee expects that 274,277 pounds of salable Native spearmint oil from prior years will be carried into the 2020-2021 marketing year. This amount is up from the 211,828 pounds of salable oil carried into the 2019-2020 marketing year.

Further, the Committee estimates that there will be 1,153,192 pounds of Native spearmint oil in the reserve pool at the beginning of the 2020-2021 marketing year. This figure is 101,237 pounds higher than the quantity of reserve pool oil held by producers the previous year and is consistent with the gradual increase in reserves that the industry has experienced over the past three marketing years.

The Committee expects end users of Native spearmint oil to continue to rely on Far West production as its main source of high-quality Native spearmint oil, with market demand similar to the past year. A sharp spike in demand for 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 marketing year salable quantity to be depleted. While sales in the 2020-2021 marketing year are expected to come down from the 2017-2018 levels, the Committee still anticipates demand to be relatively high.

The Committee estimates the 2020-2021 marketing year Native spearmint oil trade demand to be 1,347,042 pounds. This figure is based on input provided by producers at six production area meetings held in mid-October 2019, as well

as estimates provided by handlers and other meeting participants at the October 16, 2019, meeting. This figure represents an increase of 17,042 pounds from the previous year's estimate. The average estimated trade demand for Native spearmint oil derived from the producer meetings was 1,347,042 pounds, whereas the handlers' estimates ranged from 1,150,000 to 1,450,000 pounds. The average of Native spearmint oil sales over the last three years is 1,366,094 pounds. The quantity marketed over the most recent full marketing year, 2018-2019, was 1,245,076 pounds. The Committee chose to be slightly conservative in the establishment of its trade demand estimate for the 2020-2021 marketing year to avoid oversupplying the market.

The estimated 2020-2021 marketing year carry-in of 274,277 pounds of Native spearmint oil, plus the recommended salable quantity of 1,230,531 pounds, would result in an estimated total available supply of 1,504,808 pounds of oil during the 2020-2021 marketing year. With the corresponding estimated trade demand of 1,347,042 pounds, the Committee projects that 157,766 pounds of oil will be carried into the 2021-2022 marketing year, resulting in a decrease of 116,511 pounds year-over-year. The Committee estimates that there will be 1,153,192 pounds of Native spearmint oil held in the reserve pool at the

beginning of the 2021-2022 marketing year. Should the industry experience an unexpected increase in trade demand, oil in the Native spearmint oil reserve pool could be released to satisfy that demand.

The Committee recommended a producer allotment percentage of 49 percent for the 2020-2021 marketing year. During its October 16, 2019, meeting, the Committee calculated an initial producer allotment percentage by dividing the minimum required salable quantity (1,072,765 pounds) by the total estimated allotment base (2,511,288 pounds), resulting in 42.7 percent. However, producers and handlers at the meeting expressed that the computed percentage of 42.7 percent may not adequately supply the potential 2020-2021 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 49 percent. The total estimated allotment base (2,511,288 pounds) for the 2020-2021 marketing year multiplied by the recommended salable allotment percentage (49 percent) yields 1,230,531 pounds, the recommended salable quantity for the year.

The 2020-2021 marketing year computational data for the Committee's recommendations is further outlined below.

(A) Estimated carry-in of Native spearmint oil on June 1, 2020: 274,277 pounds. This figure is the difference between the revised 2019-2020 marketing year total available supply of 1,604,277 pounds and the revised 2019-2020 marketing year estimated trade demand of 1,330,000 pounds.

(B) Estimated trade demand of Native spearmint oil for the 2020-2021 marketing year: 1,347,042 pounds. This estimate was established by the Committee at the October 16, 2019, meeting.

(C) Salable quantity of Native spearmint oil required from the 2020-2021 marketing year production: 1,072,765 pounds. This figure is the difference between the estimated 2020-2021 marketing year estimated trade demand (1,347,042 pounds) and the estimated carry-in on June 1, 2020 (274,277 pounds). This is the minimum amount of Native spearmint oil that the Committee believes would be required to meet the anticipated 2020-2021 marketing year trade demand.

(D) Total estimated allotment base of Native spearmint oil for the 2020-2021 marketing year: 2,511,288 pounds. This figure represents a one-percent increase over the 2019-2020 total actual allotment base of 2,486,424 pounds as prescribed in § 985.53(d)(1). The one-percent

increase equals 24,864 pounds of oil. This estimate is revised each year on June 1, due to adjustments resulting from the bona fide effort production provisions of § 985.53(e).

(E) Computed Native spearmint oil allotment percentage for the 2020-2021 marketing year: 42.7 percent.

This percentage is calculated by dividing the required salable quantity (1,072,765 pounds) by the total estimated allotment base (2,511,288 pounds) for the 2020-2021 marketing year.

(F) Recommended Native spearmint oil allotment percentage for the 2020-2021 marketing year: 49 percent.

This is the Committee's recommendation based on the computed allotment percentage (42.7 percent) and input from producers and handlers at the October 16, 2019, meeting. The recommended 49 percent allotment percentage is also based on the Committee's belief that the computed percentage (42.7 percent) may not adequately supply the potential market for Native spearmint oil in the 2020-2021 marketing year.

(G) Recommended Native spearmint oil 2020-2021 marketing year salable quantity: 1,230,531 pounds. This figure is the product of the recommended allotment percentage (49 percent) and the total estimated allotment

base (2,511,288 pounds). This amount is less than the estimated trade demand for the 2020-2021 marketing year but could be increased as needed through an intra-seasonal increase in the salable quantity and allotment percentage.

(H) Estimated available supply of Native spearmint oil for the 2020-2021 marketing year: 1,504,808 pounds.

This figure is the sum of the 2020-2021 recommended salable quantity (1,230,531 pounds) and the estimated carry-in on June 1, 2020 (274,277 pounds).

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 838,404 pounds and 38 percent, and 1,230,531 pounds and 49 percent, respectively, would 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 proposed rule, if finalized, would be similar to regulations issued in prior seasons.

The salable quantities in this proposed rule are not expected to cause a shortage of either class of spearmint oil. Any unanticipated or additional market demand for either class of spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity and corresponding allotment percentage. 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 proposed rule, USDA has reviewed the Committee's marketing policy statement for the 2020-2021 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 proposed salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This proposal would also provide producers with information regarding the

amount of spearmint oil that should be produced for the 2020-2021 season to meet anticipated market demand.

Initial 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 proposed rule on small entities. Accordingly, AMS has prepared this initial 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 39 producers and 94 producers of Scotch and Native spearmint oil, respectively, in the regulated production area and approximately 8 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 \$30,000,000, and small agricultural producers are defined as those having annual receipts of less than \$1,000,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil have ranged from \$14.00 to \$17.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2018 U.S. season average spearmint oil producer price per pound was \$16.80. Multiplying \$16.80 per pound by 2017-2018 marketing year spearmint oil utilization of 1,963,028 million pounds yields a crop value estimate of about \$33.0 million. Total 2017-2018 spearmint oil utilization, reported by the Committee, was 717,952 pounds and 1,245,076 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 \$16.80 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 36 of the 39 Scotch spearmint oil producers and 89 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 2018 producer price of \$16.80 yields a handler free on board (f.o.b.) price per pound estimate of \$20.16.

Multiplying this handler f.o.b. price by spearmint oil utilization of 1,963,028 pounds results in an estimated handler-level spearmint oil value of \$39.6 million.

Dividing this figure by the number of handlers (8) yields estimated average annual handler receipts of about \$5.0 million, which is well below the SBA threshold for small agricultural service firms.

Furthermore, using confidential data on pounds handled by each handler, and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the 8 handlers had a 2018-2019 marketing year spearmint oil sales value that exceeded the \$30 million SBA threshold.

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

This proposed rule would establish 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 2020-2021 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 proposal is provided in §§ 985.50, 985.51, and 985.52.

The Committee estimated trade demand for the 2020-2021 marketing year for both classes of oil at 2,097,042 pounds and expects that the combined salable carry-in will be 553,248 pounds. The combined required salable quantity is 1,543,794 pounds. Under volume regulation, total sales of spearmint oil by producers for the 2020-2021 marketing year would be held to 2,622,183 pounds (the recommended salable quantity for both classes of spearmint oil of 2,068,935 pounds plus 553,248 pounds of carry-in).

This total available supply of 2,622,183 pounds should be more than adequate to supply the 2,097,042 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2019, the total reserve pool for both classes of spearmint oil stood at 1,184,939 pounds. Furthermore, that quantity is expected to rise over the course of the 2019-2020 marketing year to 1,308,651.

Should trade demand increase unexpectedly during the 2020-2021 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2020-2021 marketing year producer allotments are based, are 38 percent for Scotch spearmint oil and 49 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels, and could sell unrestricted quantities of spearmint oil.

The USDA econometric model used to evaluate the Far West spearmint oil market estimated that the season average producer price per pound (from both classes of spearmint oil) would decline about \$2.10 per pound without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in the 2020-2021 marketing year also would likely dampen prospects for improved producer prices in future years because of the excessive buildup in stocks.

In addition, the econometric model estimated that spearmint oil prices would fluctuate with greater amplitude in the absence of volume regulation. The coefficient of variation, or CV (a standard measure of variability), of Far West spearmint oil producer prices for the period 1980-2018 (the years in which the Order has been in effect), is

25 percent, compared to 49 percent for the 20-year period (1960-1979) immediately prior to the establishment of the Order. Since higher CV values correspond to greater variability, this is an indicator of the price stabilizing impact of the Order.

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 would not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this rule for both classes of spearmint oil. The Committee rejected the idea of not regulating 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 recommended by the Committee was to maintain the allotment percentage for Scotch spearmint oil (which would slightly increase the salable quantity) and to

decrease both the salable quantity and allotment percentage for Native spearmint oil from the levels established for the 2019-2020 marketing year.

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 recommended would 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 proposed herein are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2020-2021 and future marketing years.

Costs to producers and handlers, large and small, resulting from this proposal 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 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 Vegetable and Specialty Crops. 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 proposed rule would establish the salable quantities and allotment percentages for Scotch spearmint

oil and Native spearmint oil produced in the Far West during the 2020-2021 marketing year. Accordingly, this proposal would not impose any additional reporting or recordkeeping requirements on either small or large 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. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed 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.

In addition, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the October 16, 2019, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit comments on this proposed rule,

including 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: <https://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.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

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 proposed to be 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 985.235 is added to read as follows:

**§ 985.235 Salable quantities and allotment percentages -
2020-2021 marketing year.**

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2020, shall be as follows:

(a) Class 1 (Scotch) oil - a salable quantity of 838,404 pounds and an allotment percentage of 38 percent.

(b) Class 3 (Native) oil - a salable quantity of 1,230,531 pounds and an allotment percentage of 49 percent.

Dated: February 10, 2020.

Bruce Summers,

Administrator,

Agricultural Marketing Service.

BILLING CODE 3410-02 P

[FR Doc. 2020-03008 Filed: 2/19/2020 8:45 am; Publication Date: 2/20/2020]