



Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS-SC-24-0067]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 2024-2025 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to revise the quantity of Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers in Washington, Idaho, and Oregon and parts of Nevada and Utah (Far West) for the 2024-2025 marketing year, which began on June 1, 2024. This action increases the 2024-2025 marketing year Native spearmint oil salable quantity from 678,980 pounds to 731,220 pounds, and the allotment percentage from 26 percent to 28 percent.

DATES: Effective [INSERT DATE 1 DAY AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2282, or Email: Joshua.R.Wilde@usda.gov or Barry.Broadbent@usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-8085, or Email: Antoinette.Carter@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 Agricultural Marketing Service (AMS) is issuing this final rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866, and therefore, has not been reviewed.

This final rule has been reviewed under Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments, which requires federal agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This final rule has been reviewed under Executive Order 12988 – Civil Justice Reform. This final rule is not intended to have retroactive effect. Under the Order now in effect, salable quantities and allotment percentages have been established for both classes of spearmint oil produced in the Far West. This final rule increases the quantity of Native Spearmint oil produced in the Far West that handlers may purchase from, or handle on behalf of, producers during the 2024-2025 marketing year, which began on June 1, 2024.

The Act provides that administrative proceedings must be exhausted before parties may file a suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the U.S. Department of Agriculture (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 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.

This final rule increases the quantity of Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2024-2025 marketing year. Prior to this final rule, the salable quantity and allotment percentage for Native spearmint oil were initially established at 678,980 pounds and 26 percent, respectively, in a final rule published May 23, 2024 (89 FR 45557). This action increases the Native spearmint oil salable quantity from 678,980 pounds to 731,220 pounds and the allotment percentage from 26 percent to 28 percent.

Pursuant to the requirements in § 985.50 of the Order, the Committee meets each year to consider supply and demand of spearmint oil and to adopt a marketing policy for the ensuing marketing year. In determining such marketing policy, the Committee considers several factors, including, but not limited to, the current and projected supply of oil, estimated future demand, production costs, and producer prices for both Class 1 (Scotch) and Class 3 (Native) spearmint oil. Input from spearmint oil handlers and producers is considered as well.

Pursuant to the provisions in § 985.51, when the Committee's marketing policy considerations indicate a need to establish or to maintain stable market conditions through volume regulation, the Committee subsequently recommends to AMS the establishment of a salable quantity and allotment percentage for such class or classes of oil for the upcoming marketing year. Recommendations for volume control are intended to ensure market requirements for Far West spearmint oil are satisfied and orderly marketing conditions are maintained.

Salable quantity represents the total quantity of each class of oil (Scotch or Native) which handlers may purchase from, or handle on behalf of, producers during a given marketing year. The allotment percentage for each class of spearmint oil is the salable quantity for that class of oil divided by the total of all producers' allotment base for the same class of oil. A producer's allotment base is their calculated share of the spearmint oil market based on a statistical representation of past spearmint production and sales. In order to account for changes in production and demand over time, the Committee periodically reviews and adjusts each producer's allotment base in accordance with a formula prescribed by the Committee and approved by AMS. Each producer's annual allotment of the salable quantity is calculated by multiplying their respective allotment base for each class of spearmint oil by the allotment percentage for that class of spearmint oil. The total allotment base is revised each year on June 1 to account for

producer allotment base being lost because of the “bona fide effort” production provision of § 985.53(e) and additional base made available pursuant to the provisions of § 985.153.

The Committee met on October 11, 2023, to consider its marketing policy for the 2024-2025 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. The Committee unanimously recommended salable quantities and allotment percentages for Native spearmint oil of 678,980 pounds and 26 percent, respectively. In addition, the Committee unanimously recommended a salable quantity and allotment percentage for Scotch spearmint oil of 663,648 pounds and 29 percent, respectively. A proposed rule to that effect was published in the *Federal Register* on January 25, 2024 (89 FR 4835). Comments on the proposed rule were solicited from interested persons until February 26, 2024. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2024-2025 marketing year was published in the *Federal Register* on May 23, 2024 (89 FR 45557).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52, the Committee met again on October 9, 2024, to evaluate the current year’s volume control regulation. At the meeting, the Committee assessed the current market conditions for spearmint oil in relation to the salable quantities and allotment percentages established for the 2024-2025 marketing year. The Committee considered several factors, including the current and projected supply and the estimated future demand for all classes of spearmint oil. The Committee determined that the established salable quantity and allotment percentage in effect for Native spearmint oil for the 2024-2025 marketing year should be increased to provide an adequate buffer to ensure available supply would continue to meet demand.

At the October 9, 2024, meeting the Committee recommended increasing the 2024-2025 marketing year Native spearmint oil salable quantity from 678,980 pounds to 731,220 pounds and the allotment percentage from 26 percent to 28 percent. The recommendation to increase the salable quantity and allotment percentage passed with a vote of 6 in favor with 2 opposed. The members voting against the recommendation supported volume control, but did not believe, at that time, that additional supply would be necessary to meet 2024-2025 marketing year demand.

This final rule makes additional amounts of Native spearmint oil available to the market by increasing the salable quantity and allotment percentage previously established under the Order for the 2024-2025 marketing year. This action increases the Native spearmint oil salable quantity by 52,240 pounds, to 731,220 pounds, and raises the allotment percentage by 2 percentage points, to 28 percent. This additional oil will come from Native spearmint oil held by producers in the reserve pool. As of May 31, 2024, the Committee records show that the reserve pool for Native spearmint oil contained 1,026,336 pounds of oil.

At the October 9, 2024, meeting, the Committee staff reported that, as of the meeting date, there was an estimated 356,302 pounds of salable quantity of Native spearmint available for purchase in the 2024-2025 marketing year, ending May 31, 2025. The Committee considered this amount to be inadequate for that early in the marketing year. Based on the Committee's estimated sales demand for Native spearmint oil for the remainder of the 2024-2025 marketing year, the Committee projected that approximately 125,000 pounds of Native spearmint oil could be carried into the 2025-2026 marketing year. However, the Committee was concerned that, without increasing the salable quantity and allotment percentage, the market for Native spearmint oil may be shorted if demand were to increase unexpectedly. The increased quantity of Native spearmint oil (52,240 pounds) that will be made available to the market because of this rulemaking will

help ensure that market demand is fully satisfied in the current year. Should the available supply of Native spearmint oil exceed 2024-2025 marketing year demand, any unsold quantity would remain available to the market in future marketing years as salable carry-in.

In making the recommendation to increase the salable quantity and allotment percentage of Native spearmint oil, the Committee considered all currently available information on the price, supply, and demand of Native spearmint oil. The Committee also considered reports and other information from handlers and producers in attendance at the meeting. Lastly, the Committee manager presented information and reports that were provided to the Committee staff by handlers and producers.

This final rule increases the 2024-2025 marketing year Native spearmint oil salable quantity by 52,240 pounds to a total of 731,220 pounds. This amount, along with 446,420 pounds of salable carry-in, results in available supply of 1,177,640 pounds. The Committee estimates 2024-2025 marketing year trade demand for Native spearmint oil to be 1,000,000 pounds. Actual sales of Native spearmint oil for the 2023-2024 marketing year totaled 987,041 pounds. The 5-year average of Native spearmint oil sales is 1,085,916 pounds.

The Committee estimates that, as a result of this action, approximately 175,000 pounds of salable Native spearmint oil could be carried into the 2025-2026 marketing year which begins June 1, 2025. The Committee believes this amount to be a sufficient buffer if demand exceeds the Committee's expectations for the remainder of the 2024-2025 marketing year. In addition, reserve pool oil could be released into the market under a future relaxation of the volume regulation should it be necessary to adequately supply the market prior to the 2025-2026 marketing year. The Committee estimates that a total of 1,335,150 pounds of Native spearmint oil (1,026,336 currently in reserve and an

estimated 308,814 pounds of excess oil produced during the 2024-2025 marketing year) will be available from the reserve pool, if needed.

The Committee's stated intent in the use of the Order's volume control regulation is to keep adequate supply available to meet market needs and to maintain orderly marketing conditions. With that consideration, the Committee developed its recommendation for increasing the Native spearmint oil salable quantity and allotment percentage for the 2024-2025 marketing year based on the information discussed above, as well as the summary data detailed below.

(A) Initial Estimated 2024-2025 Native Allotment Base – 2,611,463 pounds. This figure is the allotment base estimate on which the original 2024-2025 salable quantity and allotment percentage was based.

(B) Revised 2024-2025 Native Allotment Base – 2,611,500 pounds. This figure is 37 pounds more than the initial estimated allotment base of 2,611,463 pounds. The difference is the result of annual adjustments made to the allotment base at the beginning of the marketing year in accordance with the provisions of the Order.

(C) Initial 2024-2025 Native Allotment Percentage – 26 percent. This percentage was unanimously recommended by the Committee on October 11, 2023.

(D) Initial 2024-2025 Native Salable Quantity – 678,980 pounds. This figure is 26 percent of the original estimated 2024-2025 allotment base of 2,611,463 pounds.

(E) Adjusted Initial 2024-2025 Native Salable Quantity – 678,990 pounds. This figure reflects the salable quantity available at the beginning of the 2024-2025 marketing year. This quantity is derived by applying the initial 26 percent allotment percentage to the revised allotment base of 2,611,500.

(F) Revision to the 2024-2025 Native Salable Quantity and Allotment Percentage:

(1) Increase in the Native Allotment Percentage – 2 percent. The Committee recommended an increase of 2 percentage points over the initial Native allotment percentage.

(2) Revised 2024-2025 Native Allotment Percentage – 28 percent. This percentage was derived by adding the increase of 2 percentage points to the initially established 2024-2025 Native allotment percentage of 26 percent.

(3) Revised 2024-2025 Native Salable Quantity – 731,220 pounds. This figure is 28 percent of the revised 2024-2025 Native allotment base of 2,611,500 pounds.

(4) Computed Increase in the 2024-2025 Native Salable Quantity as a Result of the Revision – 52,240 pounds. This figure represents the difference between the initial 2024-2025 Native salable quantity of 678,980 pounds and the revised Native salable quantity of 731,220 pounds.

Scotch spearmint oil is also regulated by the Order. As mentioned previously, a salable quantity and allotment percentage for Scotch spearmint oil were established in a final rule published in the *Federal Register* on May 23, 2024 (89 FR 45557). At the October 9, 2024, meeting, the Committee considered the projected production, inventory, and marketing conditions for Scotch spearmint oil for the 2024-2025 marketing year. After receiving reports from the Committee staff and comments from the industry, the consensus of the Committee was that the previously established salable quantity and allotment percentage for Scotch spearmint oil were appropriate for the current market conditions. As such, the Committee took no further action with regards to Scotch spearmint oil for the 2024-2025 marketing year.

This final rule relaxes the volume regulation requirements of Native spearmint oil and is expected to allow producers to meet market demand while improving producer returns. The increase in the Native spearmint oil salable quantity and allotment percentage accounts for the anticipated market needs for that class of oil. In determining

anticipated market needs, the Committee considered changes and trends in historical sales, production, and demand. In conjunction with this rulemaking, AMS also reviewed the Committee's marketing policy statement for the 2024-2025 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.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this final 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 89 producers of Native spearmint oil operating within the regulated production area. In addition, there are approximately 6 Native 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 equal to or less than \$34.0 million (Postharvest Crop Activities, NAICS code 11514). Small agricultural producers of spearmint oil are defined as those having annual receipts of equal to or less than \$2.5 million (All Other Miscellaneous Crop Farming, NAICS code 111998) (13 CFR 121.201).

The National Agricultural Statistics Service (NASS) reported that the 2023 U.S. season average spearmint oil producer price per pound was \$18.40 (both Scotch and Native). Native spearmint oil utilization for the 2023-2024 marketing year, as reported by the Committee, was 987,041 pounds for Native spearmint oil. Multiplying \$18.40 per

pound by 2023-2024 marketing year spearmint oil utilization of 987,041 pounds yields a crop value estimate of about \$18.2 million.

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 \$18.40 average spearmint oil price and Committee production data for each producer, the Committee estimates that all of the 89 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. Twenty percent of the 2023 producer price (\$18.40) is \$3.68, which results in a handler Free on Board (f.o.b.) price per pound estimate of \$22.08 ($\$18.40 + \3.68).

Multiplying this estimated handler f.o.b. price by the 2023-2024 marketing year total spearmint oil utilization of 1,536,364 pounds (987,041 pounds of Native + 549,323 pounds of Scotch) results in an estimated handler-level spearmint oil value of \$33.9 million. Dividing this figure by the number of handlers (6) yields estimated average annual handler receipts of about \$5.7 million, which is well below the \$34.0 million SBA threshold for small agricultural service firms.

Furthermore, using confidential data compiled by the Committee on the pounds of spearmint oil handled by each handler and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the six handlers had 2023-2024 marketing year spearmint oil sales that exceeded SBA's 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 final rule increases the quantity of Native spearmint oil produced in the Far West, which handlers may purchase from, or handle on behalf of, producers during the 2024-2025 marketing year, which ends May 31, 2025. The 2024-2025 marketing year Native spearmint oil salable quantity was initially established at 678,980 pounds and the allotment percentage initially set at 26 percent. This action increases the Native spearmint oil salable quantity to 731,220 pounds and the allotment percentage to 28 percent. 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 from or handled on behalf of producers during the marketing year through volume regulation allows producers to coordinate their spearmint oil production with expected market demand. Authority for this proposal is provided in §§ 985.50, 985.51, and 985.52 of the Order.

Based on the information and projections available at the October 9, 2024, meeting, the Committee considered several alternatives to this increase. The Committee considered leaving the salable quantity and allotment percentage unchanged, and also considered other potential levels of increase. The Committee reached its recommendation to increase the salable quantity and allotment percentage for Native spearmint oil after careful consideration of all available information and input from all interested industry participants and believes that the levels established herein will achieve the desired objectives. The recommendation to increase the salable quantity and allotment percentage passed with a vote of 6 in favor with 2 opposed. The members voting against the recommendation supported volume control, but did not believe that additional supply would be necessary to meet 2024-2025 marketing year demand. Without the increase, the Committee believes the industry may not be able to satisfactorily meet market demand.

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 in those requirements are necessary as a result of this final rule. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule relaxes the volume regulation requirements established under the Order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large Far West spearmint oil 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.

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.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

A proposed rule concerning this action was published in the *Federal Register* on December 4, 2024 (89 FR 96126). Copies of the proposed rule were made available to all members of the Committee and industry handlers. The proposal was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending December 19, 2024, was provided for interested persons to respond to the proposal. No comments were received during the comment period. Accordingly, no changes have been made to the rule as proposed.

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 Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this rule is consistent with and tends to effectuate the declared policy of the Act.

Further, it is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the *Federal Register* (5 U.S.C. 553 (d)) because there is demand for additional Far West Native spearmint oil that will not be available under the volume regulation provisions of the Order until this final rule is effective. Handlers want to take advantage of this relaxation as soon as possible and any delay may result in the loss of marketing opportunities, in both the near and long term. Native spearmint oil demand that cannot be satisfied from spearmint oil from the Far West production area may be fulfilled from other U.S. production areas or imported product. The loss of immediate business resulting from a delayed implementation of this rule could result in customers entering into purchase agreements with other Native spearmint oil providers. Delaying this rule would prevent handlers from meeting current seasonal demand, resulting in lost revenue from missed sales and the potential loss of long-term customers who may secure supply from other sources. This represents clear and immediate economic harm to the industry. This action, which was initiated by the Committee at a meeting on October 9, 2024, was intended to address an immediate need for additional Native spearmint oil from the Far West spearmint oil industry. Any delay in its implementation could have a negative economic impact on the industry from lost Native spearmint oil sales.

List of Subjects in 7 CFR Part 985

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

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 985 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. Amend § 985.234 by revising paragraph (b) to read as follows:

§ 985.234 Salable quantities and allotment percentages – 2024-2025 marketing year.

* * * * *

(b) Class 3 (Native) oil - a salable quantity of 731,220 pounds and an allotment percentage of 28 percent.

Erin Morris,

Administrator,

Agricultural Marketing Service.

[FR Doc. 2025-10671 Filed: 6/11/2025 8:45 am; Publication Date: 6/12/2025]