

**PART 285—PROVISION OF A  
NUTRITION ASSISTANCE GRANT  
FOR THE COMMONWEALTH OF  
PUERTO RICO**

**§ 285.2 [Amended]**

9. In § 285.2, the first sentence of paragraph (b) is amended by removing the citations “§§ 285.4 and 285.7 in this part” and adding “§§ 285.3 and 285.5” in their place.

10. In § 285.3:

- a. The second sentence of paragraph (a) is removed.
- b. The third sentence of paragraph (a) is amended by removing the word “subsequent”.
- c. Paragraph (b)(3)(iii) is removed.
- d. New paragraphs (d), (e), (f), (g), and (h) are added.

The additions read as follows:

**§ 285.3 Plan of operation.**

\* \* \* \* \*

(d) FCS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FCS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

- (1) Sufficient to permit analysis and review;
- (2) Reasonably targeted to the most needy persons as defined in the plan of operation;
- (3) Supported by an assessment of the food and nutrition needs of needy persons;
- (4) Reasonable in terms of the funds requested;
- (5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and
- (6) Consistent with all applicable Federal laws.

(e) FCS shall approve or disapprove any amendments to those provisions of the plan of operation specified in paragraph (b) of this section. If FCS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as possible, and FCS shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved. The Commonwealth of Puerto Rico shall, for informational purposes, submit to FCS any amendments to those provisions of the plan of operation not specified in paragraph (b) of this section. Such submittal shall be made at least 30 days prior to the effective date

of the amendment. If circumstances warrant a waiver of the 30-day requirement, the Commonwealth of Puerto Rico shall submit a waiver request to FCS for consideration. Should FCS determine that such an amendment relates to the provisions of paragraph (b) of this section, FCS approval as established in this paragraph will be necessary for the amendment to be implemented.

(f) FCS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(g) If all or part of the plan of operation is disapproved, FCS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(h) In accordance with the provisions of § 285.5, funds may be withheld or denied when all or part of a plan of operation is disapproved.

**§§ 285.4–285.5 [Removed]**

11. § 285.4 and § 285.5 are removed.

**§ 285.6 [Redesignated as § 285.4]**

12. § 285.6 is redesignated § 285.4.

**§ 285.7 [Amended]**

13. In § 285.7:

- a. The section is redesignated 285.5.
- b. The first sentence of paragraph (a) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.
- c. The first sentence of paragraph (b) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.

**§§ 285.8–285.10 [Removed]**

14. § 285.8 through § 285.10 are removed.

Dated: January 5, 1996.

Ellen Haas,

*Under Secretary for Food, Nutrition, and Consumer Services.*

[FR Doc. 96–887 Filed 1–23–96; 8:45 am]

**BILLING CODE 3410–30–U**

**Agricultural Marketing Service**

**7 CFR Part 985**

[FV95–985–5PR]

**Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1996–97 Marketing Year**

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 1996–97 marketing year. The Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West, recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices, and thus help to maintain stability in the spearmint oil market.

**DATES:** Comments must be received by February 23, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW., Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326–2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Order No. 985 (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah). This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–

674), hereinafter referred to as the "Act."

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

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers by handlers during the 1996–97 marketing year, which begins on June 1, 1996. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 8 spearmint oil handlers subject to regulation under the marketing order and approximately 260 producers of spearmint oil in the

regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) oil allotment base, and approximately 145 producers hold Class 3 (Native) oil allotment base. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers have been defined as those whose annual receipts are less than \$500,000. A minority of producers and handlers of Far West spearmint oil may be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order accounts for approximately 75 percent of the annual U.S. production of spearmint oil.

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the marketing order, the Committee recommended the salable quantities and allotment percentages for the 1996–97 marketing year at its September 26, 1995, meeting. The Committee recommended the establishment of a salable quantity and allotment percentage for Scotch spearmint oil in a vote of six in favor and one opposed. The member voting in opposition favored the establishment of a higher salable quantity and allotment percentage. The Committee recommended the establishment of a salable quantity and allotment percentage for Native spearmint oil in a vote of seven in favor and none opposed. The Chairman abstained from voting on both actions.

This proposed rule would establish a salable quantity of 989,303 pounds and an allotment percentage of 55 percent for Scotch spearmint oil, and a salable quantity of 1,074,902 pounds and an allotment percentage of 54 percent for Native spearmint oil. This rule would limit the amount of spearmint oil that handlers may purchase from, or handle for, producers during the 1996–97 marketing year, which begins on June 1, 1996. Salable quantities and allotment percentages have been placed into effect each season since the marketing order's inception in 1980.

The Committee revised its procedure for calculating the salable quantity and

allotment percentage for Scotch spearmint oil this season by using a formula based on that portion of the entire North American market share targeted by the Far West. The Committee chose to use a targeted percentage of the North American market share in its deliberations due to the increased production of Scotch spearmint oil in Canada and certain domestic areas outside of the Far West production area. The Far West spearmint oil industry maintained approximately 72 percent of the North American Scotch spearmint oil market share during 1980, the marketing order's first year of operation. By 1994, this had gradually diminished to the point where the Far West had sales of Scotch spearmint oil representing approximately 52 percent of the North American market. Reestablishing the Far West with a majority of the North American market share is a priority of the Committee, while at the same time maintaining market stability. Although desiring to regain the market share level realized in 1980, the Committee plans to work at achieving this goal over a period of several years.

The method of calculating the Native spearmint oil salable quantity and allotment percentage remains unchanged, with the primary consideration being price and available supply as affected by the estimated trade demand for Far West spearmint oil. United States production of Native spearmint oil is centered in the Far West which produces approximately 90 percent of the total supply.

The proposed salable quantity and allotment percentage for each class of spearmint oil for the 1996–97 marketing year is based upon the Committee's recommendation and the data presented below.

#### (1) Class 1 (Scotch) Spearmint Oil

(A) Estimated carry-in on June 1, 1996—196,384 pounds. This number is derived by subtracting the estimated 1995–96 marketing year trade demand of 862,784 pounds from the revised 1995–96 marketing year total available supply of 1,059,168 pounds.

(B) Estimated North American production (U.S. and Canada) for the 1996–97 marketing year—1,549,316 pounds. This number is an estimate based on Committee information provided by producers and buyers.

(C) Percentage of North American market targeted—64.67 percent. This number is an average of the recommended target percentages made at each of the six regional producer meetings held throughout the Far West

production area during the month of September, 1995.

(D) Total quantity of Scotch spearmint oil needed to reach targeted percentage—1,001,891 pounds. This number is the product of the estimated 1996–97 North American production and the targeted percentage.

(E) Minimum amount desired to have on hand throughout the season—191,667 pounds. This number is an average of those amounts recommended by producers at the six regional producer meetings, and reflects the Committee's commitment in regaining market share by maintaining a minimum quantity on hand.

(F) Total supply required—1,193,558 pounds. This number is derived by adding the minimum desired on hand amount to the total quantity required to meet the targeted percentage.

(G) Additional quantity required—997,174 pounds. This represents the actual amount of additional or new oil needed to meet the Committee's projections, and is computed by subtracting the estimated carry-in of 196,384 pounds from the total supply required of 1,193,558 pounds.

(H) Total allotment base for the 1996–97 marketing year—1,798,732 pounds.

(I) Computed allotment percentage—55 percent. This percentage is computed by dividing the required salable quantity by the total allotment base.

(J) Recommended allotment percentage—55 percent.

(K) The Committee's recommended salable quantity—989,303 pounds.

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

(A) Estimated carry-in on June 1, 1996—44,959 pounds. This number is derived by subtracting the estimated 1995–96 marketing year trade demand of 1,084,436 pounds from the revised 1995–96 marketing year total available supply of 1,129,395 pounds.

(B) Estimated trade demand (domestic and export) for the 1996–97 marketing year—1,084,436 pounds. This number is an estimate based on the average of total annual sales made between 1988 and 1994, handler estimates, and Committee information provided by producers and buyers.

(C) Salable quantity required from 1996 production—1,039,477 pounds. This number is the difference between the estimated 1996–97 marketing year trade demand and the estimated carry-in on June 1, 1996.

(D) Total allotment base for the 1996–97 marketing year—1,990,559 pounds.

(E) Computed allotment percentage—52.2 percent. This percentage is computed by dividing the required

salable quantity by the total allotment base.

(F) Recommended allotment percentage—54 percent. The Committee recommended a percentage slightly higher than that computed so as to maintain an ample supply of Native spearmint oil available for the market.

(G) The Committee's recommended salable quantity—1,074,902 pounds.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The Committee's recommended salable quantities of 989,303 pounds and 1,074,902 pounds, and allotment percentages of 55 percent and 54 percent for Scotch and Native spearmint oils, respectively, are based on anticipated 1996–97 marketing year supply and trade demand. The relatively higher recommended salable quantities and allotment percentages for both Scotch and Native spearmint oils for the 1996–97 marketing year, when compared to those initially recommended for the 1995–96 marketing year, are demonstrative of the Committee's concern with the increasing production of spearmint oil, both inside and outside the marketing order production area, and the industry's desire to maintain a significant share of the North American market while maintaining the overall stability of the market.

The proposed salable quantities 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 can be satisfied by an increase in the salable quantities. Both Scotch and Native spearmint oil producers who produce more than their annual allotments during the 1996–97 season may transfer such excess spearmint oil to a producer with spearmint oil production less than his or her annual allotment or put it into the reserve pool.

This proposed regulation, if adopted, would be similar to those which have been issued in prior seasons. Costs to producers and handlers resulting from this proposed action are expected to be offset by the benefits derived from improved returns.

The establishment of these salable quantities and allotment percentages would allow for anticipated market needs based on historical sales, changes and trends in production and demand,

and information available to the Committee. Adoption of this proposed rule would also provide spearmint oil producers with information on the amount of oil which should be produced for next season.

Based on available information, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period 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—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. A new § 985.215 is added to read as follows:

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

### § 985.215 Salable quantities and allotment percentages—1996–97 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1996, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 989,303 pounds and an allotment percentage of 55 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,074,902 pounds and an allotment percentage of 54 percent.

Dated: January 17, 1996.

Sharon Bomer Lauritsen,  
Deputy Director, Fruit and Vegetable Division.  
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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2 and 150

[Docket No. PRM–150–3]

### Measurex Corp.; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.