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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 985

[Docket No. FV05-985-2 FIR A]

#### Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2005-2006 Marketing Year

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, the provisions of two interim final rules that increased the quantity of Class 1 (Scotch) and Class 3 (Native) spearmint oil that handlers may purchase from, or handle for, producers during the 2005-2006 marketing year. This rule continues in effect the actions that increased the Scotch spearmint oil salable quantity by an additional 385,489 pounds from 677,409 pounds to 1,062,898 pounds, and the allotment percentage by an additional 20 percent from 35 percent to 55 percent. In addition, this rule continues in effect the actions that increased the Native spearmint oil salable quantity by an additional 303,497 pounds from 867,958 pounds to 1,171,455 pounds, and the allotment percentage by an additional 14 percent from 40 percent to 54 percent. The marketing order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). The Committee recommended this rule for the purpose of avoiding extreme fluctuations in supplies and prices and

to help maintain stability in the Far West spearmint oil market.

**DATES:** *Effective Date:* May 1, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the "order." 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."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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 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.

The initial salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2005-2006 marketing year was recommended by the Committee at its October 6, 2004, meeting. The Committee recommended salable quantities of 677,409 pounds and 867,958 pounds, and allotment percentages of 35 percent and 40 percent, respectively, for Scotch and Native spearmint oil. A proposed rule was published in the **Federal Register** on January 12, 2005 (70 FR 2027). Comments on the proposed rule were solicited from interested persons until February 11, 2005. No comments were received. Subsequently, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2005-2006 marketing year was published in the **Federal Register** on March 24, 2005 (70 FR 14969).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, the Committee has made recommendations to increase the quantity of Scotch and Native spearmint oil that handlers may purchase from, or handle for, producers during the 2005-2006 marketing year, which ends on May 31, 2006. The first revision was published as an interim final rule in the **Federal Register** on September 23, 2005 (70 FR 55713), which increased the 2005-2006 marketing year salable quantities and allotment percentages for Scotch and Native spearmint oil to 1,062,898 pounds and 55 percent, and 1,019,600 pounds and 47 percent, respectively. The second revision was published as an amended interim final rule in the **Federal Register** on December 5, 2005 (70 FR 72355), which further increased the Native spearmint oil salable quantity by an additional 151,855 pounds from 1,019,600 pounds to 1,171,455 pounds and the allotment percentage by an additional 7 percent from 47 percent to 54 percent. The Committee did not make a recommendation to increase the Scotch

spearmint oil salable quantity or allotment percentage by an additional amount due to stable market conditions.

Thus, taking into consideration the following discussion on adjustments, the 2005–2006 marketing year salable quantity and allotment percentage for Scotch spearmint oil is increased to 1,062,898 pounds and 55 percent, respectively. The 2005–2006 marketing year salable quantity and allotment percentage for Native spearmint oil is increased to 1,171,455 pounds and 54 percent, respectively.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during the marketing year. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's individual allotment base for the applicable class of spearmint oil.

The total industry allotment base for Scotch spearmint oil for the 2005–2006 marketing year was estimated by the Committee at the October 6, 2004, meeting at 1,935,455 pounds. This was later revised at the beginning of the 2005–2006 marketing year to 1,932,542 pounds to reflect a 2004–2005 marketing year loss of 2,913 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 1,932,542 pounds is applied to the originally established allotment percentage of 35 percent, the initially established 2005–2006 marketing year salable quantity of 677,409 pounds is effectively modified to 676,390 pounds.

The same situation applies to Native spearmint oil where the Committee estimated that the total industry allotment base for the 2005–2006 marketing year was 2,169,894 pounds, and was revised at the beginning of the 2005–2006 marketing year to 2,169,362 pounds to reflect a 2004–2005 marketing year loss of 532 pounds of base due to non-production of some producers' total annual allotments. When the revised total allotment base of 2,169,362 pounds is applied to the originally established allotment percentage of 40 percent, the initially established 2005–2006 marketing year salable quantity of 867,958 pounds is effectively modified to 867,745 pounds.

By increasing the salable quantity and allotment percentage, this final rule adopts the provisions of two interim final rules that made an additional amount of Scotch and Native spearmint oil available by releasing oil from the reserve pool. When applied to each

individual producer, this allotment percentage increase allows each producer to take up to an amount equal to their allotment base from their respective oil reserve. In addition, pursuant to §§ 985.56 and 985.156, producers with excess oil are not able to transfer such excess oil to other producers to fill deficiencies in annual allotments after October 31 of each marketing year.

The following table summarizes the Committee recommendation:

#### Scotch Spearmint Oil Recommendation

(A) Estimated 2005–2006 Allotment Base—1,935,455 pounds. This is the estimate on which the original 2005–2006 Scotch spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2005–2006 Allotment Base—1,932,542 pounds. This is 2,913 pounds less than the estimated allotment base of 1,935,455 pounds. This is less because some producers failed to produce all of their 2004–2005 allotment.

(C) Initial 2005–2006 Allotment Percentage—35 percent. This was recommended by the Committee on October 6, 2004.

(D) Initial 2005–2006 Salable Quantity—677,409. This figure is 35 percent of 1,935,455 pounds.

(E) Initial Adjustment to the 2005–2006 Salable Quantity—676,390 pounds. This figure reflects the salable quantity initially available after the beginning of the 2005–2006 marketing year due to the 2,913 pound reduction in the industry allotment base to 1,932,542 pounds.

(F) First Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—20 percent. The Committee recommended a 20 percent increase at its August 24, 2005, meeting.

(2) 2005–2006 Allotment Percentage—55 percent. This figure is derived by adding the increase of 20 percent to the initial 2005–2006 allotment percentage of 35 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,062,898 pounds. This figure is 55 percent of the revised 2005–2006 allotment base of 1,932,542 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—386,508 pounds. This figure is 20 percent of the revised 2005–2006 allotment base of 1,932,542 pounds.

(G) No Second Revision to the 2005–2006 Salable quantity and Allotment Percentage.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee manager from handlers who were not in attendance. The 2005–2006 marketing year began on June 1, 2005. Handlers have reported purchases and committed sales of 861,579 pounds of Scotch spearmint oil for the period of June 1, 2005, through February 21, 2006. This amount is 117 percent of the total sales for the five-year average of 736,991 pounds. Handlers estimated the total demand for the 2005–2006 marketing year could be between 917,745 pounds to 937,745 pounds. These amounts exceed the five-year average for an entire marketing year by 180,754 pounds to 200,754 pounds. Therefore, based on past history, the industry may not be able to meet market demand without this increase. When the Committee made its initial recommendation for the establishment of the Scotch spearmint oil salable quantity and allotment percentage for the 2005–2006 marketing year, it had anticipated that the year would end with an ample available supply.

#### Native Spearmint Oil Recommendation

(A) Estimated 2005–2006 Allotment Base—2,169,894 pounds. This is the estimate on which the original 2005–2006 Native spearmint oil salable quantity and allotment percentage was based.

(B) Revised 2005–2006 Allotment Base—2,169,362 pounds. This is 532 pounds less than the estimated allotment base of 2,169,894 pounds. This is less because some producers failed to produce all of their 2004–2005 allotment.

(C) Initial 2005–2006 Allotment Percentage—40 percent. This was recommended by the Committee on October 6, 2004.

(D) Initial 2005–2006 Salable Quantity—867,958. This figure is 40 percent of 2,169,894 pounds.

(E) Initial Adjustment to the 2005–2006 Salable Quantity—867,745 pounds. This figure reflects the salable quantity initially available after the beginning of the 2005–2006 marketing year due to the 532 pound reduction in the industry allotment base to 2,169,362 pounds.

(F) First Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—7 percent. The Committee

recommended a 7 percent increase at its August 24, 2005, meeting.

(2) 2005–2006 Allotment Percentage—47 percent. This figure is derived by adding the increase of 7 percent to the initial 2005–2006 allotment percentage of 40 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,019,600 pounds. This figure is 47 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—151,855 pounds. This figure is 7 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(G) Second Revision to the 2005–2006 Salable Quantity and Allotment Percentage:

(1) Increase in Allotment Percentage—7 percent. The Committee recommended a 7 percent increase at its October 5, 2005, meeting.

(2) 2005–2006 Allotment Percentage—54 percent. This figure is derived by adding the increase of 7 percent to the first revised 2005–2006 allotment percentage of 47 percent.

(3) Calculated Revised 2005–2006 Salable Quantity—1,171,455 pounds. This figure is 54 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

(4) Computed Increase in the 2005–2006 Salable Quantity—151,855 pounds. This figure is 7 percent of the revised 2005–2006 allotment base of 2,169,362 pounds.

In making this recommendation, the Committee considered all available information on price, supply, and demand. The Committee also considered reports and other information from handlers and producers in attendance at the meeting and reports given by the Committee manager from handlers who were not in attendance. The 2005–2006 marketing year began on June 1, 2005. Handlers have reported purchases and committed sales of 1,060,441 pounds of Native spearmint oil for the period of June 1, 2005, through February 21, 2006. This amount is 110 percent of the total sales for the five-year average of 962,377 pounds. Handlers estimated the total demand for the 2005–2006 marketing year could be between 1,100,000 pounds to 1,300,000 pounds. These amounts exceed the five-year average for an entire marketing year by 137,623 pounds to 337,623 pounds. Therefore, based on past history, the industry may not be able to meet market demand without these increases. When the Committee made its initial recommendation for the establishment of the Native spearmint oil salable

quantity and allotment percentage for the 2005–2006 marketing year, it had anticipated that the year would end with an ample available supply.

Based on its analysis of available information, USDA has determined that the salable quantity and allotment percentage for Scotch spearmint oil for the 2005–2006 marketing year should be increased to 1,062,898 pounds and 55 percent, respectively. In addition, USDA has determined that the salable quantity and allotment percentage for Native spearmint oil for the 2005–2006 marketing year should be increased to 1,171,455 pounds and 54 percent, respectively.

This rule finalizes two interim final rules that relaxed the regulation of Scotch and Native spearmint oil and will allow producers to meet market needs and improve returns. In conjunction with the issuance of this rule, the Committee's revised marketing policy statement for the 2005–2006 marketing year has been reviewed by USDA. The Committee's marketing policy statement, a requirement whenever the Committee recommends implementing volume regulations or recommends revisions to existing volume regulations, meets the intent of § 985.50 of the order. During its discussion of revising the 2005–2006 salable quantities and allotment percentages, the Committee considered: (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) prospective production of each class of oil; (4) 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. Conformity with USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" has also been reviewed and confirmed.

The increases in the Scotch and Native spearmint oil salable quantities and allotment percentages allows for anticipated market needs for both classes of oil. In determining anticipated market needs, consideration by the Committee included historical sales, and changes and trends in production and demand.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the

Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are eight spearmint oil handlers subject to regulation under the order, and approximately 59 producers of Scotch spearmint oil and approximately 91 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$6,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

Based on the SBA's definition of small entities, the Committee estimates that 2 of the 8 handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that 19 of the 59 Scotch spearmint oil producers and 21 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The 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. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted to spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint for weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, most

spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such are more at risk to market fluctuations. Such small producers generally need to market their entire annual crop and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternative crops could support the operation for a period of time. Being reasonably assured of a stable price and market provides small producing entities with the ability to maintain proper cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefit the small producer more than such provisions benefit large producers. Even though a majority of handlers and producers of spearmint oil may not be classified as small entities, the volume control feature of this order has small entity orientation.

This final rule adopts, without change, the provisions of the interim final rule published in the **Federal Register** on September 23, 2005 (70 FR 55713) and amended on December 5, 2005 (70 FR 72355). Specifically, the rule published on September 23, 2005, increased the 2005–2006 marketing year salable quantities and allotment percentages for Scotch and Native spearmint oil to 1,062,898 pounds and 55 percent, and 1,019,600 pounds and 47 percent, respectively. The rule that subsequently amended the interim final rule was published on December 5, 2005, increased the Native spearmint oil salable quantity by an additional 151,855 pounds from 1,019,600 pounds to 1,171,455 pounds, and the allotment percentage by an additional 7 percent from 47 percent to 54 percent. The Committee did not make a recommendation to further increase the Scotch spearmint oil salable quantity or allotment percentage due to stable market conditions. This rule finalizes two interim final rules that relaxed the Scotch and Native spearmint oil volume regulations and allows producers to meet market needs and improve returns.

An econometric model was used to assess the impact that volume control has on the prices producers receive for their commodity. Without volume control, spearmint oil markets would likely be over-supplied, resulting in low producer prices and a large volume of oil stored and carried over to the next crop year. The model estimates how much lower producer prices would

likely be in the absence of volume controls.

The recommended allotment percentages, upon which 2005–2006 producer allotments are based, are 55 percent for Scotch (a 20 percentage point increase from the original allotment percentage of 35 percent) and 54 percent for Native (a 14 percentage point increase from the original salable percentage of 40 percent). Without volume controls, producers would not be limited to these allotment levels, and could produce and sell additional spearmint oil. The econometric model estimated a \$1.32 decline in the season average producer price per pound (for both classes of spearmint oil) resulting from the higher quantities that would be produced and marketed if volume controls were not used (*i.e.*, if the salable percentages were set at 100 percent).

Loosening the volume control restriction by increasing the allotment percentages resulted in this revised price decline estimate of \$1.32 per pound if volume controls were not used. The initial price decline estimate of \$1.60 per pound was based on the 2005–2006 allotment percentages (35 percent for Scotch and 40 percent for Native) published in the **Federal Register** on March 24, 2005 (70 FR 14969). The 2004 Far West producer price for both classes of spearmint oil was \$9.48 per pound.

The surplus situation for the spearmint oil market that would exist without volume controls in 2005–2006 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume controls allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume controls 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.

Based on projections available at the meetings, the Committee considered alternatives to each of the increases finalized herein. The Committee not only considered leaving the salable quantity and allotment percentage unchanged, but also looked at various increases ranging from 0 percent to 100 percent. The Committee reached each of its recommendations to increase the salable quantity and allotment percentage for Scotch and Native spearmint oil after careful consideration of all available information, and believes that the levels recommended will achieve the objectives sought. Without the increases, the Committee

believes the industry would not be able to meet market needs.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large 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 compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate in Committee deliberations. Like all Committee meetings, the August 24, 2005, and October 5, 2005, meetings were public meetings and all entities, both large and small, were able to express their views on modification of the 2005–2006 salable quantities and allotment percentages.

The first revision was published as an interim final rule in the **Federal Register** on September 23, 2005. Comments on the interim final rule were solicited from interested persons until November 22, 2005. No comments were received. The second revision was published as an amended interim final rule in the **Federal Register** on December 5, 2005. Comments on the amended interim final rule were solicited from interested persons until February 3, 2006. No comments were received. Copies of each of these rules were mailed by the Committee's staff to all committee members, producers, handlers, and other interested persons. In addition, each of these rules was made available through the Internet by USDA and the Office of the Federal Register.

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that

finalizing the interim final rules, without change, as published in the **Federal Register** (70 FR 55713, September 23, 2005, and 70 FR 72355, December 5, 2005) 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.

#### PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ Accordingly, the interim final rules amending 7 CFR part 985, which were published at 70 FR 55713 on September 23, 2005 and 70 FR 72355 on December 5, 2005, are adopted as a final rule without change.

Dated: March 27, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06-3080 Filed 3-29-06; 8:45 am]

BILLING CODE 3410-02-P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-20110; Directorate Identifier 2004-NM-114-AD; Amendment 39-14531; AD 2006-07-04]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 737-600, -700, -700C, -800, and -900 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes. This AD requires repetitive general visual inspections for dirt, debris, and drain blockage and cleaning of the aft fairing cavities of the engine struts; and modification of the aft fairings, which terminates the repetitive general visual inspections. This AD results from a report indicating that water had accumulated in the cavities of the engine strut aft fairings. We are issuing this AD to prevent drain blockage by debris that, when combined with leaking, flammable fluid lines passing through the engine strut aft fairing,

could allow flammable fluids to build up in the cavity of the aft fairing, and consequently could be ignited by the engine exhaust nozzle located below the engine strut, resulting in an explosion or uncontrolled fire.

**DATES:** This AD becomes effective May 4, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 4, 2006.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL-401, Washington, DC.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207, for service information identified in this AD.

#### FOR FURTHER INFORMATION CONTACT:

Doug Pegors, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 917-6504; fax (425) 917-6590.

#### SUPPLEMENTARY INFORMATION:

##### Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the street address stated in the **ADDRESSES** section.

##### Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737-600, -700, -700C, -800, and -900 series airplanes. That NPRM was published in the **Federal Register** on January 24, 2005 (70 FR 3320). That NPRM proposed to require repetitive general visual inspections for dirt, debris, and drain blockage and cleaning of the aft fairing cavities of the engine struts; and modification of the aft fairings, which would terminate the repetitive general visual inspections.

##### Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

##### Support for NPRM

Southwest Airlines and AirTran Airways support the NPRM.

##### Request To Revise Dimension Between Certain Fastener Holes

Alaska Airlines requests that we revise the dimension between certain fastener holes specified in Figures 3, 4, 5, and 6 of Boeing Special Attention Service Bulletin 737-54-1041, dated January 22, 2004. Alaska Airlines states that the dimension between an existing fastener hole and the new fastener hole is called out in the ten-thousandths (1.6772 inches); any deviation from this exact measurement would require approval of an alternative method of compliance (AMOC). Alaska Airlines suggests dimensions of 1.67 or 1.68 inches with a standard tolerance of  $\pm 0.03$  inch. If we cannot revise the dimension, the commenter instead requests that we clarify why such a tight tolerance would be required.

We agree with Alaska Airlines' request, since there is no technical justification for requiring such a tight tolerance between fastener holes. Since issuance of the NPRM, Boeing has published Service Bulletin 737-54-1041, Revision 1, dated December 1, 2005. The procedures in Revision 1 of the service bulletin are essentially the same as those in the original issue, dated January 22, 2004, which we referenced in the NPRM as the appropriate source of service information. Revision 1 allows a dimension of 1.647 inches to 1.707 inches between fastener holes. Therefore, we have revised this AD to also allow use of Revision 1 for accomplishing the actions specified in this AD. We have also revised paragraph (c) of this AD to reference Revision 1. Since the effectivity of Revision 1 is the same as the effectivity of the original issue, the applicability of this AD has not changed.

##### Clarification of AMOC Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

##### Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.