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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV96-985-1IFR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) Spearmint Oil for the 1995-96 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule increases the quantity of Class 1 (Scotch) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1995-96 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

DATES: Effective on April 9, 1996 through May 31, 1996; comments received by May 9, 1996 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698. All 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 97204-2807; telephone: (503) 326-2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139.

SUPPLEMENTARY INFORMATION: This 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), hereinafter referred to as the "order." This 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 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 rule increases the quantity of Scotch spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1995-96 marketing year, which ends on May 31, 1996. 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 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 eight spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 (Scotch) spearmint oil allotment base, and approximately 145 producers hold Class 3 (Native) spearmint oil allotment base. Small agricultural service firms have been 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 are defined as those whose annual receipts are less than \$500,000. A minority of handlers and producers 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 are 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 order). Spearmint oil is also produced in the Midwest. The production area covered by the order normally accounts for

approximately 75 percent of the annual U.S. production of spearmint oil.

This rule increases the quantity of Scotch spearmint oil that handlers may purchase from, or handle for, producers during the 1995–96 marketing year, which ends on May 31, 1996. This rule increases the salable quantity from 908,531 pounds to 997,317 pounds and the allotment percentage from 51 percent to 56 percent for Scotch spearmint oil for the 1995–96 marketing year.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. 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 initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 1995–96 marketing year were recommended by the Committee at its October 5, 1994, meeting. The Committee recommended salable quantities of 908,531 pounds and 906,449 pounds, and allotment percentages of 51 percent and 46 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the December 15, 1994, issue of the Federal Register (59 FR 64624). Comments on the proposed rule were solicited from interested persons until January 17, 1995. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995–96 marketing year was published in the February 15, 1995, issue of the Federal Register (60 FR 8524). The Committee met again on February 22, 1995, to recommend an increase in the salable quantity and allotment percentage for Native spearmint oil. An interim final rule increasing the salable quantity and allotment percentage for Native spearmint oil by 98,527 and 5 percent, respectively, was published in the Federal Register on April 14, 1995 (60 FR 18950). Comments were solicited on the interim final rule until May 15, 1995. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing as the salable quantity and allotment percentage for Native spearmint oil for the 1995–96 marketing

year was published in the June 12, 1995, issue of the Federal Register (60 FR 30785).

Pursuant to authority contained in sections 985.50, 985.51, and 985.52 of the order, at its February 27, 1996, meeting, the Committee unanimously recommended that the allotment percentage for Scotch spearmint oil for the 1995–96 marketing year be increased by 5 percent from 51 percent to 56 percent. The 1995–96 marketing year salable quantity of 908,531 pounds would therefore be increased by 89,046 pounds to 997,317 pounds.

However, some Scotch spearmint oil producers did not produce all of their individual salable quantities for the 1995–96 marketing year, or fill their deficiencies from the prior year's production. The marketing order authorizes such producers to have their deficiencies filled by other producers who have production in excess of their salable quantities. This is optional for producers, but must be done before November 1 of each marketing year. Although the Scotch spearmint oil salable quantity for 1995–96 was established at 908,531 pounds, only 887,093 pounds were actually made available. Unfilled deficiencies totaled 21,178 pounds.

In addition, for the Scotch spearmint oil the total industry allotment base of 1,781,433 pounds was revised to 1,780,923 pounds to reflect loss of base due to non-production of their total annual allotments. This adjustment resulted in a 510 pound loss of total industry base, which is reflected in the calculations for the revised salable quantity.

This interim final rule makes an additional amount of Scotch spearmint oil available by increasing the salable quantity which releases oil from the reserve pool. Only producers with Scotch spearmint oil in the reserve pool will be able to use this increase in the salable quantity. Prior to November 1, 1995, producers without reserve pool oil or producers with an insufficient supply of reserve oil could have deficiencies in meeting their salable quantities filled by producers having excess Scotch spearmint oil. If all producers could use their salable quantity, this 5 percent increase in the allotment percentage would have made an additional 89,046 pounds of Scotch spearmint oil available. However, Scotch spearmint oil producers having 21,260 pounds of Scotch spearmint oil will not be able to use their reserve pool deficiencies this marketing year. Thus, rather than 89,046 additional pounds being made available, this action makes 67,786 additional

pounds of Scotch spearmint oil available to the market.

The following table summarizes the Committee recommendation:

| Scotch Spearmint Oil Recommendation | |
|---|------------------------|
| (a) Actual Carry In on June 1, 1995: | 150,637 pounds |
| (b) 1995–96 Salable Quantity: | 908,531 pounds |
| (c) 1995–96 Available Supply: | 1,059,168 pounds (a+b) |
| (d) Total Sales as of February 27, 1996: | 883,959 pounds |
| (e) Calculated Available Supply as of February 27, 1996: | 175,209 pounds (c – d) |
| (f) Unfilled Deficiencies in producers' salable quantities prior to November 1, 1995: | 21,178 pounds |
| (g) Unusable salable quantities due to producers not having reserve pool oil: | 21,260 pounds |
| (h) Total Deficiency Affecting Salable Quantity: | 42,438 pounds (f+g) |
| (i) Actual Available Supply (2/27/96): | 153,771 pounds (e – f) |
| (j) Revised Total Allotment Base: | 1,780,923 pounds |
| (k) Recommended Allotment Percentage (2/27/96): | 56 percent |
| (l) Calculated Revised Salable Quantity: | 997,317 pounds (j×k) |
| (m) Actual Oil Available as Salable Quantity: | 954,879 pounds (l – h) |

In making this latest recommendation, the Committee considered all available information on supply and demand. The 1996–97 marketing year begins on June 1, 1996. Handlers have indicated that with this action, the available supply of both Scotch and Native spearmint oils appears adequate to meet anticipated demand through May 31, 1996. However, with increases in Scotch spearmint oil production elsewhere over the past two years, the Committee has embarked on a strategy of maintaining an abundance of Scotch spearmint oil available for market in an attempt to regain lost market share. With 153,771 pounds of Scotch spearmint oil available as of February 27, 1996, the Committee, believes that the increase would ensure that ample supplies of Scotch spearmint oil are available throughout the remainder of the current marketing year. When the Committee made its initial recommendation for the establishment of the Scotch spearmint oil salable quantity and allotment percentage for the 1995–96 marketing year, it had anticipated that the year would end with an ample available supply. With this revision, 221,557 pounds of Scotch spearmint oil is made available for market during the remainder of the 1995–96 marketing year.

The Department, based on its analysis of available information, has determined

that an allotment percentage of 56 percent should be established for Scotch spearmint oil for the 1995-96 marketing year. This percentage will provide an increased calculated salable quantity of 997,317 pounds, the actual additional amount of Scotch spearmint oil being made available by this interim final rule is 67,786 pounds. This results in an actual salable quantity of 954,879 pounds of Scotch spearmint oil.

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

After consideration of all relevant matter presented, including that contained in the prior proposed and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995-96 marketing year, the Committee's recommendation and other available information, it is found that to revise section 985.214 (60 FR 8524) to change the salable quantity and allotment percentage for Scotch spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) This interim final rule increases the quantity of Scotch spearmint oil that may be marketed during the marketing year beginning on June 1, 1995; (2) The quantity of Scotch spearmint planted for the 1996-97 marketing year may be affected, thus handlers and producers should be apprised as soon as possible of the salable quantity and allotment percentage of Scotch spearmint oil contained in this interim final rule; and (3) This rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

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

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—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 985.214 is amended by revising paragraph (a) to read as follows:

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

§ 985.214 Salable quantities and allotment percentages-1995-96 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1995, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 997,317 pounds and an allotment percentage of 56 percent.

* * * * *

Dated: April 2, 1996.

James R. Rodeheaver,
Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96-8719 Filed 4-8-96; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket No. 960329093-6093-01]

RIN 0607-XX13

Collection of Canadian Province of Manufacture Information for Softwood Lumber on Customs Entry Records

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule with request for comments.

SUMMARY: The Bureau of the Census (Census) has directed the U.S. Customs Service (Customs) to begin immediate collection of information on the province of manufacture on imports of softwood lumber from Canada. This action is taken to assist in carrying out an agreement reached between the United States and Canada concerning trade in softwood lumber.

DATES: Final rule effective April 5, 1996. Comments due on or before May 6, 1996.

ADDRESSES: Direct all written comments to the Director, Bureau of the Census, Room 2049, Federal Building 3, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: C. Harvey Monk, Jr., Bureau of the Census, Washington, D.C. 20233, by telephone on (301) 457-2255 or by fax

(301) 457-2645. For information on the U.S.-Canada agreement on softwood lumber: Gordana Earp, Deputy Assistant U.S. Trade Representative for Industry, by telephone on (202) 395-6160.

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1996, the United States and Canada concluded an agreement in principle on trade on certain softwood lumber products. Upon completion of the agreement text, the agreement is to enter into force, in fact, on April 1, 1996. The agreement includes commitments by Canada that are linked to the amount of softwood lumber exported annually to the United States from particular provinces. To carry out the agreement, it is necessary to determine accurately the amount of softwood lumber entering the United States on a province-by-province basis.

Currently, U.S. Customs entry records include information on the Identification of the Foreign Manufacturer. This information is not satisfactory because it frequently represents the corporate headquarters or Canadian vendor, and not the location in which the goods were actually produced.

Effective April 5, 1996 unless notified by the United States Trade Representative of a later effective date, the Bureau of the Census will require the two-letter designation of the Canadian province of manufacture to be reported on U.S. entry summary records for shipments released on or after April 5, 1996. The province of manufacture is to be determined on a first mill basis (i.e., the point at which the item was first manufactured into a covered lumber product (described below)). Further processing (e.g., planing or kiln drying) and/or transformation from one covered lumber product into another covered lumber product (e.g., remanufactured products) in another province does not constitute a change in the province of manufacture. For purposes of this rule, province of manufacture is the province where the subject merchandise underwent a change in tariff classification to tariff items 4407.1000, 4409.1010, 4409.1090, or 4409.1020 from any other tariff items except a tariff item within that group.

The reporting of province of manufacture will apply to the non-ABI as well as ABI entry summaries. For those reporting on paper forms the province of manufacture code will replace the Country of Origin on the CF 7501 Entry Summary form. This requirement would apply only for imports of softwood lumber with Country of Origin Canada.