

producing farms would fall into the category of large businesses.

Small spearmint oil producers represent a minority of farming operations and are more vulnerable to market fluctuations. Such small farmers generally need to market their entire annual crop and do not have the resources 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 of stronger incomes from alternate crops which could support the operation for a period of time. Despite the advantage of larger producers, increasing the Native salable quantity and allotment percentage will help both large and small producers by improving returns. In addition, this change may potentially benefit the small producer more than large producers. This is because the change ensures that small producers are more likely to maintain a profitable cash flow and meet annual expenses.

Alternatives to this rule included not increasing the available supply of Native spearmint oil, which could potentially hurt small producers. 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 believes that the level recommended will achieve the objectives sought. Without the increase, the Committee believes the industry would not be able to meet market needs. As of February 25, 1998, approximately 88,000 pounds of Native spearmint oil were available for market. Average demand for Native spearmint oil from March 1 to May 31 over the past 17 years has been 108,029 pounds. Therefore, based on past history the industry may not have been able to meet market demand without this change. When the Committee made its initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 1997-98 marketing year, it had anticipated that the year would end with an ample available supply. This revision has the effect of adding 53,998 pounds of Native spearmint oil to the amount available for market, bringing the total available supply for the period February 25 through May 31, 1998, up to 144,158 pounds.

Annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. Reporting and recordkeeping requirements have remained the same for each year of regulation. Accordingly, this action will

not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers and handlers. All reports and forms associated with this program are reviewed periodically in order to avoid unnecessary and duplicative information collection by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Finally, the Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend and participate on all issues. Interested persons are also invited to submit information on the regulatory and informational impacts of this action on small businesses.

The interim final rule regarding this action was issued on April 24, 1998, and published in the **Federal Register** (63 FR 23373, April 29, 1998), with an effective date of April 30, 1998. That rule amended § 985.216 of the rules and regulations in effect under the order and provided a 20-day comment period which ended May 19, 1998. No comments were received.

After consideration of all relevant matter presented, including that contained in the prior proposed, interim final, and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1997-98 marketing year, the Committee's recommendation and other available information, it is found that to revise § 985.216 (62 FR 36650) to change the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that 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) because this rule applies to spearmint produced during the 1997-98 marketing year, which ends May 31, 1998. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 20-day comment period was provided in the interim final rule and no comments were received.

#### **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 rule amending 7 CFR part 985 which was published at 63 FR 23371 on April 29, 1998, is adopted as a final rule without change.

Dated: June 1, 1998

**Sharon Bomer Lauritsen,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-15002 Filed 6-4-98; 8:45 am]

BILLING CODE 3410-02-P

#### **DEPARTMENT OF AGRICULTURE**

##### **Animal and Plant Health Inspection Service**

##### **9 CFR Part 77**

[Docket No. 97-063-2]

##### **Tuberculosis in Cattle and Bison; State Designation; Hawaii**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of Hawaii from an accredited-free (suspended) State to an accredited-free State. We have determined that Hawaii meets the criteria for designation as an accredited-free State.

**DATES:** Interim rule effective June 1, 1998. Consideration will be given only to comments received on or before August 4, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-063-2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-063-2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road

Unit 43, Riverdale, MD 20737-1231,  
(301) 734-7716.

#### SUPPLEMENTARY INFORMATION:

##### Background

The "Tuberculosis" regulations, contained in 9 CFR part 77 (referred to below as "the regulations"), regulate the interstate movement of cattle and bison because of tuberculosis. Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to, tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free States, modified accredited States, or nonmodified accredited States.

The criteria for determining the status of States (the term "State" is defined to mean any State, territory, the District of Columbia, or Puerto Rico) are contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which has been made part of the regulations via incorporation by reference. The status of States is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis eradication program. An accredited-free State is a State that has no findings of tuberculosis in any cattle or bison in the State for at least 5 years. The State must also comply with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free States.

An accredited-free (suspended) State is defined as a State with accredited-free status in which tuberculosis has been detected in any cattle or bison in the State. A State with accredited-free (suspended) status is qualifies for redesignation as accredited-free after the herd in which tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor cattle and bison have been destroyed.

Before publication of this interim rule, Hawaii was designated in § 77.1 of the regulations as an accredited-free (suspended) State. However, Hawaii now meets the requirements for designation as an accredited-free State. Therefore, we are amending the regulations by removing Hawaii from the list of accredited-free (suspended) States in § 77.1 and adding it to the list of accredited-free States in that section.

##### Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to change the regulations so that they accurately reflect the current tuberculosis status of Hawaii as an accredited-free State. This will provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

##### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

According to the 1992 Census of Agriculture, Hawaii has 874 cattle herds containing 191,230 cattle. Some 757 of these herds, or 87 percent, contain 200 or fewer cattle apiece and are assumed to be owned by small businesses. Changing the status of Hawaii may affect the marketability of cattle from the State, since some prospective cattle buyers prefer to buy cattle from accredited-free States. This may result in a small beneficial economic impact on some small entities, although it appears that sales of cattle from Hawaii to other States are quite small in volume. We anticipate, based on our experience in similar designations of other States, that this action will not have a significant effect on marketing patterns in Hawaii and will therefore not have a significant economic effect on those small entities affected by this action.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action will not have a significant economic impact on a substantial number of small entities.

##### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

##### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

##### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

#### PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

**Authority:** 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

##### § 77.1 [Amended]

2. In § 77.1, in the definition for "Accredited-free state", paragraph (2) is amended by adding "Hawaii," immediately before "Idaho".

3. In § 77.1, in the definition for "Accredited-free (suspended) State", paragraph (2) is amended by removing "Hawaii" and adding "None" in its place.

Done in Washington, DC, this 1st day of June 1998.

**Craig A. Reed,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98-14877 Filed 6-4-98; 8:45 am]

BILLING CODE 3410-34-P