

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS-FV-14-0096; FV15-985-1 PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2015–2016 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Spearmint Oil Administrative Committee (Committee) to establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle on behalf of, producers during the 2015–2016 marketing year, which begins on June 1, 2015. The Far West includes the states of Washington, Idaho, and Oregon, and designated parts of Nevada and Utah. This rule invites comments on the establishment of salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil of 1,265,853 pounds and 60 percent, respectively, and for Class 3 (Native) spearmint oil of 1,341,269 pounds and 56 percent, respectively. The Committee locally administers the marketing order for spearmint oil produced in the Far West and recommended these quantities to help maintain stability in the spearmint oil market.

DATES: Comments must be received by March 31, 2015.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or

Internet: <http://www.regulations.gov>. All comments should reference the document 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, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: Barry.Broadbent@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposal 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.”

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13175, and 13563.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect. Under the 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, which handlers may purchase from, or handle on behalf of, producers during the 2015–2016 marketing year, which begins on June 1, 2015.

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 Committee meets annually in the fall to adopt a marketing policy for the ensuing marketing year or years. In determining such marketing policy, the Committee considers a number of factors, including, but not limited to, the current and projected supply, estimated future demand, production costs, and producer prices for all classes of spearmint oil. Input from spearmint oil handlers and producers regarding prospective marketing conditions for the upcoming year is considered as well. If the Committee’s marketing policy considerations indicate a need for limiting the quantity of any or all classes of spearmint oil marketed, the Committee subsequently recommends to USDA the establishment of a salable quantity and allotment percentage for such class or classes of oil for the forthcoming marketing year. Recommendations for volume control are intended to ensure that market requirements for Far West spearmint oil are satisfied and orderly marketing conditions are maintained.

The salable quantity represents the total amount of each class of spearmint oil that handlers may purchase from, or handle on behalf of, producers during the marketing year. The allotment percentage is the percentage used to calculate each producer’s prorated share of the salable quantity. It is derived by

dividing the salable quantity for each class of spearmint oil by the total of all producers' allotment bases for the same class of oil. Each producer's annual allotment of salable spearmint oil is calculated by multiplying their respective total allotment base by the allotment percentage for each class of spearmint oil. A producer's allotment base is their quantified share of the spearmint oil market based on a statistical representation of past spearmint oil production, with accommodation for reasonable and normal adjustments to such base as prescribed by the Committee and approved by USDA.

Salable quantities and allotment percentages are established at levels intended to fulfill market requirements and to maintain orderly marketing conditions. Committee recommendations for volume controls are made well in advance of the period in which the regulations are to be effective, thereby allowing producers the chance to adjust their production decisions accordingly.

Pursuant to authority in §§ 985.50, 985.51, and 985.52 of the order, the full eight-member Committee met on November 5, 2014, and recommended salable quantities and allotment percentages for both classes of oil for the 2015–2016 marketing year. The Committee unanimously recommended the establishment of a salable quantity and allotment percentage for Class 1 (Scotch) spearmint oil of 1,265,853 pounds and 60 percent, respectively. The Committee, also with a unanimous vote, recommended the establishment of a salable quantity and allotment percentage for Class 3 (Native) spearmint oil of 1,341,269 pounds and 56 percent, respectively.

This action would set the amount of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2015–2016 marketing year, which begins on June 1, 2015. Salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980.

Class 1 (Scotch) Spearmint Oil

As noted above, the Committee unanimously recommended a salable quantity of Scotch spearmint oil of 1,265,853 pounds and an allotment percentage of 60 percent for the upcoming 2015–2016 marketing year. The Committee utilized 2015–2016 sales estimates for Scotch spearmint oil, as provided by several of the industry's handlers, as well as historical and current Scotch spearmint oil production

and inventory statistics, to arrive at these recommendations.

Trade demand for Far West Scotch spearmint oil is expected to rise from 1,092,726 pounds in the 2014–2015 marketing year to 1,100,000 pounds in 2015–2016. Industry reports indicate that the increased trade demand estimate is the result of increased consumer demand for mint flavored products and low end-user inventories that need to be replenished. Information gathered from spearmint oil handlers supports this conclusion.

Production of Far West Scotch spearmint oil increased from 1,057,377 pounds in 2013 to 1,093,740 pounds in 2014. Committee members attribute the increase in production to both the low level of reserves and growing demand. Given that these factors are expected to continue in the coming 2015–2016 year, the Committee expects production to increase to as much as 1,300,000 pounds for the forthcoming marketing year.

The Committee also estimates that there will be zero carry-in of Scotch spearmint oil on June 1, 2015, the beginning of the 2015–2016 marketing year. This figure, which is the primary measure of excess supply, is down from 7,064 carried-in the previous year. This level of carry-in is below the minimum carry-in quantity that the Committee considers favorable. The demand for Scotch spearmint oil during the remainder of the 2014–2015 marketing year is expected to equal or exceed the remaining total supply, which will likely cause the zero carry-in.

The 2015–2016 salable quantity of 1,265,853 pounds recommended by the Committee represents an increase of 173,127 pounds over the total supply available during the previous marketing year. Total supply for 2014–2015 amounted to 1,092,726 pounds (7,064 carry-in, 989,643 pounds produced, and 96,019 pounds released from the reserve).

The Committee estimates 2015–2016 demand for Scotch spearmint oil at 1,100,000 pounds. When considered in conjunction with the forecast that there will be zero available carry-in of Scotch spearmint oil on June 1, 2015, the recommended salable quantity of 1,265,853 pounds would satisfy market demand and yield a carry-in of 165,853 pounds available at the beginning of 2016–2017 marketing year.

The Committee's stated intent in the use of marketing order volume control regulations for Scotch spearmint oil is to keep adequate supplies available to meet market needs and maintain orderly marketing conditions. The salable quantity recommended for the

upcoming marketing year is more than the salable quantity initially set for the previous year of 1,149,030. The Committee believes that the recommended salable quantity would adequately meet demand, as well as result in a larger carry-in for the following year. With that in mind, the Committee developed its recommendation for the proposed Scotch spearmint oil salable quantity and allotment percentage for the 2015–2016 marketing year based on the information discussed above, as well as the data outlined below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2015—0 pounds.* This figure is the difference between the revised 2014–2015 marketing year total available supply of 1,092,726 pounds and the estimated 2014–2015 marketing year trade demand of 1,092,726 pounds.

(B) *Estimated trade demand of Scotch spearmint oil for the 2015–2016 marketing year—1,100,000 pounds.* This figure is based on input from producers at five Scotch spearmint oil production area meetings held in late September and early October 2014, as well as estimates provided by handlers and other meeting participants at the November 5, 2014, meeting. The average estimated trade demand derived from the five production area meetings was 1,192,400 pounds, which is 42,400 pounds more than the average of trade demand estimates submitted by handlers. Far West Scotch spearmint oil sales have averaged 979,520 pounds per year over the last three years. Given this information, the Committee decided it was prudent to anticipate the trade demand at 1,100,000 pounds. Should the initially established volume control levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases as needed.

(C) *Salable quantity of Scotch spearmint oil required from the 2015–2016 marketing year production—1,100,000 pounds.* This figure is the difference between the estimated 2015–2016 marketing year trade demand (1,100,000 pounds) and the estimated carry-in on June 1, 2015 (0 pounds). This figure represents the minimum salable quantity that may be needed to satisfy estimated demand for the coming year with no carryover.

(D) *Total estimated allotment base of Scotch spearmint oil for the 2015–2016 marketing year—2,109,755 pounds.* This figure represents a one-percent increase over the revised 2014–2015 total allotment base. This figure is generally revised each year on June 1 due to producer base being lost because of the

bona fide effort production provisions of § 985.53(e). The revision is usually minimal.

(E) *Computed Scotch spearmint oil 2015–2016 marketing year allotment percentage—52.1 percent.* This percentage is computed by dividing the minimum required salable quantity (1,100,000 pounds) by the total estimated allotment base (2,109,755 pounds).

(F) *Recommended Scotch spearmint oil 2015–2016 marketing year allotment percentage—60 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (52.1 percent), the average of the computed allotment percentage figures from the five production area meetings (56.5 percent), and input from producers and handlers at the November 5, 2014, meeting. The recommended 60 percent allotment percentage is also based on the Committee's belief that the computed percentage (52.1 percent) may not adequately supply the potential 2015–2016 Scotch spearmint oil market.

(G) *Recommended Scotch spearmint oil 2015–2016 marketing year salable quantity—1,265,853 pounds.* This figure is the product of the recommended allotment percentage (60 percent) and the total estimated allotment base (2,109,755 pounds).

(H) *Estimated total available supply of Scotch spearmint oil for the 2015–2016 marketing year—1,265,853 pounds.* This figure is the sum of the 2015–2016 recommended salable quantity (1,265,853 pounds) and the estimated carry-in on June 1, 2015 (0 pounds).

Class 3 (Native) Spearmint Oil

At the November 5, 2014, meeting, the Committee also recommended a 2015–2016 Native spearmint oil salable quantity of 1,341,269 pounds and an allotment percentage of 56 percent. The Committee utilized Native spearmint oil sales estimates for 2015–2016 marketing year, as provided by several of the industry's handlers, as well as historical and current Native spearmint oil market statistics to establish these thresholds. The recommended volume control levels represent an increase of 250,448 pounds and 10 percentage points over the previous year's initially established salable quantity and allotment percentage.

The Committee also estimates that there will be 512,745 pounds of Native spearmint oil in the reserve pool on June 1, 2015. This figure, which is the oil held in reserve by producers, is down from an industry peak of 606,942 pounds in 2011. Reserve levels of Native

spearmint oil are nearing the level that the Committee believes is optimal for the industry.

Committee statistics indicate that demand for Far West Native spearmint oil has been gradually increasing since 2009. Spearmint oil handlers, who previously projected the 2014–2015 trade demand for Far West Native spearmint oil to be in the range of 1,100,000 pounds to 1,400,000 pounds (with an average of 1,300,000 pounds), have projected trade demand for the 2015–2016 marketing period to be in the range of 1,290,000 pounds to 1,400,000 pounds (with an average of 1,347,500).

Given the above, the Committee estimates that approximately 1,300,000 pounds of Native spearmint oil may be sold during the 2015–2016 marketing year. When considered in conjunction with the estimated carry-in of 117,368 pounds of Native spearmint oil on June 1, 2015, the recommended salable quantity of 1,341,269 pounds results in an estimated total available supply of 1,458,637 pounds of Native spearmint oil during the 2015–2016 marketing year. Estimated carry-in of Native spearmint oil at the beginning of the 2016–2017 marketing year would be approximately 152,137 pounds. Carry-in spearmint oil is distinct from reserve pool spearmint oil and represents the amount of salable spearmint oil produced, but not marketed, in previous years and is available for sale in the current year. It is the primary measure of excess spearmint oil supply under the order. Reserve pool oil represents the amount of excess oil held by the Committee, on behalf of the producers, that is not currently available to the market.

The Committee's stated intent in the use of marketing order volume control regulations for Native spearmint oil is to keep adequate supplies available to meet market needs and maintain orderly marketing conditions. With that in mind, the Committee developed its recommendation for the proposed Native spearmint oil salable quantity and allotment percentage for the 2015–2016 marketing year based on the information discussed above, as well as the data outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2015—117,368 pounds.* This figure is the difference between the revised 2014–2015 marketing year total available supply of 1,458,368 pounds and the estimated 2014–2015 marketing year trade demand of 1,341,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2015–2016 marketing year—1,306,500 pounds.* This estimate is established by the

Committee and is based on input from producers at six Native spearmint oil production area meetings held in late September and early October 2014, as well as estimates provided by handlers and other meeting participants at the November 5, 2014, meeting. The average estimated trade demand provided at the six production area meetings was 1,330,167 pounds, whereas the handlers' estimates ranged from 1,250,000 pounds to 1,400,000 pounds, and averaged 1,356,750 pounds. The average of Far West Native spearmint oil sales over the last three years is 1,306,492 pounds.

(C) *Salable quantity of Native spearmint oil required from the 2015–2016 marketing year production—1,189,132 pounds.* This figure is the difference between the estimated 2015–2016 marketing year trade demand (1,306,500 pounds) and the estimated carry-in on June 1, 2015 (117,368 pounds). This is the minimum amount that the Committee believes would be required to meet the anticipated 2015–2016 Native spearmint oil trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2015–2016 marketing year—2,395,124 pounds.* This figure represents a one-percent increase over the revised 2014–2015 total allotment base. This figure is generally revised each year on June 1 due to producer base being lost due to the bona fide effort production provisions of § 985.53(e). The revision is usually minimal.

(E) *Computed Native spearmint oil 2015–2016 marketing year allotment percentage—49.6 percent.* This percentage is computed by dividing the required salable quantity (1,189,132) by the total estimated allotment base (2,395,124 pounds).

(F) *Recommended Native spearmint oil 2015–2016 marketing year allotment percentage—56 percent.* This is the Committee's recommendation based on the computed allotment percentage (49.6 percent), the average of the computed allotment percentage figures from the six production area meetings (51.0 percent), and input from producers and handlers at the November 5, 2014, meeting. The recommended 56 percent allotment percentage is also based on the Committee's belief that the computed percentage (49.6 percent) may not adequately supply the potential 2015–2016 Native spearmint oil market.

(G) *Recommended Native spearmint oil 2015–2016 marketing year salable quantity—1,341,269 pounds.* This figure is the product of the recommended allotment percentage (56 percent) and

the total estimated allotment base (2,395,124 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2015–2016 marketing year—1,458,637 pounds.* This figure is the sum of the 2015–2016 recommended salable quantity (1,341,269 pounds) and the estimated carry-in on June 1, 2015 (117,368 pounds).

The salable quantity is the total quantity of each class of spearmint oil that 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 Scotch and Native spearmint oil salable quantities and allotment percentages of 1,265,853 pounds and 60 percent, and 1,341,269 pounds and 56 percent, respectively, are based on the goal of maintaining market stability. The Committee anticipates that this goal would be achieved by matching the available supply of each class of Spearmint oil to the estimated demand of such, thus avoiding extreme fluctuations in inventories and prices.

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 could be satisfied by an intra-seasonal increase in the salable quantity. The order contains a provision for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the 2015–2016 marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, up until December 1, 2015, producers may place excess spearmint oil production into the reserve pool to be released in the future in accordance with market needs.

This proposed regulation, if adopted, would be similar to regulations issued in prior seasons. The average initial allotment percentage for the five most recent marketing years for Scotch spearmint oil is 44.0 percent, while the average initial allotment percentage for the same five-year period for Native spearmint oil is 48.8 percent.

Costs to producers and handlers resulting from this rule are expected to be offset by the benefits derived from a stable market and increased returns. In conjunction with the issuance of this

proposed rule, USDA has reviewed the Committee's marketing policy statement for the 2015–2016 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, fully meets the intent of § 985.50 of the order.

During its discussion of potential 2015–2016 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) the prospective production of each class of oil; (4) the 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 establishment of these salable quantities and allotment percentages would allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This rule also provides producers with information on the amount of spearmint oil that should be produced for the 2015–2016 season in order to meet anticipated market demand.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial 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 eight spearmint oil handlers subject to regulation under the order, and approximately 37 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) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

Based on the SBA's definition of small entities, the Committee estimates that two of the eight 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 11 of the 37 Scotch spearmint oil producers, and 25 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 oil for purposes of weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, a majority of 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 from market fluctuations. Such small producers generally need to market their entire annual production of spearmint oil and are not financially able to hold spearmint oil for sale in future years. In addition, small producers generally do not have a large assortment of 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 alternate crops could support the operation for a period of time. That being said being reasonably assured of

a stable price and market provides all producing entities with the ability to maintain proper cash flow and to meet annual expenses. The benefits for this rule are expected to be equally available to all producers and handlers regardless of their size.

This proposed rule would establish the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle on behalf of, producers during the 2015–2016 marketing year. The Committee recommended this rule 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 or handled during the marketing year through volume regulations allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this action is provided in §§ 985.50, 985.51, and 985.52 of the order.

Instability in the spearmint oil sub-sector of the mint industry is much more likely to originate on the supply side than the demand side. Fluctuations in yield and acreage planted from season-to-season tend to be larger than fluctuations in the amount purchased by handlers. Historically, demand for spearmint oil tends to change slowly from year to year.

Demand for spearmint oil at the farm level is derived from retail demand for spearmint-flavored products such as chewing gum, toothpaste, and mouthwash. The manufacturers of these products are by far the largest users of spearmint oil. However, spearmint flavoring is generally a very minor component of the products in which it is used, so changes in the raw product price have virtually no impact on retail prices for those goods.

Spearmint oil production tends to be cyclical. Years of relatively high production, with demand remaining reasonably stable, have led to periods in which large producer stocks of unsold spearmint oil have depressed producer prices for a number of years. Shortages and high prices may follow in subsequent years, as producers respond to price signals by cutting back production.

The significant variability of the spearmint oil market is illustrated by the fact that the coefficient of variation (a standard measure of variability; “CV”) of Far West spearmint oil grower prices for the period 1980–2013 (when the marketing order was in effect) is 0.23, compared to 0.36 for the decade prior to the promulgation of the order (1970–79) and 0.49 for the prior 20-year

period (1960–79). This provides an indication of the price stabilizing impact of the marketing order.

Production in the shortest marketing year was about 47 percent of the 34-year average (1.92 million pounds from 1980 through 2013) and the largest crop was approximately 160 percent of the 34-year average. A key consequence is that, in years of oversupply and low prices, the season average producer price of spearmint oil is below the average cost of production (as measured by the Washington State University Cooperative Extension Service).

The wide fluctuations in supply and prices that result from this cycle, which was even more pronounced before the creation of the order, can create liquidity problems for some producers. The order was designed to reduce the price impacts of the cyclical swings in production. However, producers have been less able to weather these cycles in recent years because of the increase in production costs. While prices have been relatively steady, the cost of production has increased to the extent that plans to plant spearmint may be postponed or changed indefinitely. Producers may also be enticed by the prices of alternative crops and their lower cost of production.

In an effort to stabilize prices, the spearmint oil industry uses the volume control mechanisms authorized under the order. This authority allows the Committee to recommend a salable quantity and allotment percentage for each class of oil for the upcoming marketing year. The salable quantity for each class of oil is the total volume of oil that producers may sell during the marketing year. The allotment percentage for each class of spearmint oil is derived by dividing the salable quantity by the total allotment base.

Each producer is then issued an annual allotment certificate, in pounds, for the applicable class of oil, which is calculated by multiplying the producer's allotment base by the applicable allotment percentage. This is the amount of oil of each applicable class that the producer can market.

By December 1 of each year, the Committee identifies any oil that individual producers have produced above the volume specified on their annual allotment certificates. This excess oil is placed in a reserve pool administered by the Committee. A reserve pool is maintained for each class of oil that may not be sold during the current marketing year unless USDA approves a Committee recommendation to increase the salable quantity and allotment percentage for a class of oil

and make a portion of the pool available.

Limited quantities of excess oil may be sold by one producer to another producer to fill production deficiencies in a marketing year. A deficiency occurs when on-farm production is less than a producer's allotment. When a producer has a deficiency, the producer's own reserve oil can be utilized to fill that deficiency, or excess production (production of spearmint oil in excess of the producer's annual allotment) from another producer may also be secured to fill the deficiency. All of these provisions need to be exercised prior to December 1 of each year.

In any given year, the total available supply of spearmint oil is composed of current production plus salable carryover stocks from the previous crop. The Committee seeks to maintain market stability by balancing supply and demand, and to close the marketing year with an appropriate level of salable spearmint oil to carry over into the subsequent marketing year. If the industry has production in excess of the salable quantity, then the reserve pool absorbs the surplus quantity of spearmint oil, which goes unsold during that year, unless the oil is needed for unanticipated sales.

Under its provisions, the order may attempt to stabilize prices by (1) limiting supply and establishing reserves in high production years, thus minimizing the price-depressing effect that excess producer stocks have on unsold spearmint oil, and (2) ensuring that stocks are available in short supply years when prices would otherwise increase dramatically. Reserve pool stocks, which increase in high production years, are drawn down in years where the crop is short.

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. This could result 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 Committee estimated trade demand for the 2015–2016 marketing year for both classes of oil at 2,406,500 pounds, and that the expected combined salable carry-in will be 117,368 pounds. This results in a combined required salable quantity of 2,289,132 pounds. With volume control, sales by producers for the 2015–2016 marketing year would be limited to 2,607,122 pounds (the recommended

salable quantity for both classes of spearmint oil).

The recommended allotment percentages, upon which 2015–2016 producer allotments are based, are 60 percent for Scotch and 56 percent for Native. Without volume controls, producers would not be limited to these allotment levels, and could produce and sell an unrestricted quantity of spearmint oil. The econometric model estimated a decline of about \$1.30 in the season average producer price per pound (from both classes of spearmint oil) resulting from the higher quantities that would be produced and marketed without volume control. The surplus situation for the spearmint oil market that would exist without volume controls in 2015–2016 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume control allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume control is believed to have little or no effect on consumer prices of products containing spearmint oil and would not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this rule for both classes of spearmint oil. The Committee discussed and rejected the idea of recommending that there not be any volume regulation for both classes of spearmint oil because of the severe price-depressing effects that would occur without volume control. The Committee also considered salable quantities and allotment percentages that were above and below the levels that were ultimately recommended.

After computing the initial 52.1 percent Scotch spearmint oil allotment percentage, the Committee considered various alternative levels of volume control for Scotch spearmint oil. Even with the moderately optimistic marketing conditions, there was consensus from the Committee that the Scotch spearmint oil allotment percentage for 2015–2016 should be more than the percentage initially established for the 2014–2015 marketing year (55 percent). After considerable discussion, the eight-member committee unanimously determined that 1,265,853 pounds and 60 percent would be the most effective Scotch spearmint oil salable quantity and allotment percentage, respectively, for the 2015–2016 marketing year.

The Committee was also able to reach a consensus regarding the level of volume control for Native spearmint oil. After first determining the computed

allotment percentage at 49.6 percent, the Committee unanimously recommended 1,341,269 pounds and 56 percent for the effective Native spearmint oil salable quantity and allotment percentage, respectively, for the 2015–2016 marketing year.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (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) the prospective production of each class of oil; (4) the 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.

Based on its review, the Committee believes that the salable quantities and allotment percentages recommended would achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the order's inception. The salable quantities and allotment percentages proposed herein are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2015–2016 and future marketing years.

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 the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would establish the salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil and Class 3 (Native) spearmint oil produced in the Far West

during the 2015–2016 marketing year. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or 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.

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

The Committee's meeting was widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 2014, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2015–2016 fiscal period begins on June 1, 2015, and a final determination on the salable quantities and allotment percentages should be made prior to handlers purchasing from, or handling on behalf of, producers of any oil for the ensuing marketing year; and (2) handlers are aware of this action, which was recommended by the Committee at a public meeting and is similar to other salable quantities and allotment percentages issued in past years.

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—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. A new § 985.234 is added to read as follows:

§ 985.234 Salable quantities and allotment percentages—2015–2016 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2015, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 1,265,853 pounds and an allotment percentage of 60 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,341,269 pounds and an allotment percentage of 56 percent.

Dated: March 9, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–05681 Filed 3–13–15; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

21 CFR Part 176

[Docket No. FDA–2015–F–0714]

Natural Resources Defense Council et al.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by the Natural Resources Defense Council, the Center for Food Safety, the Breast Cancer Fund, the Center for Environmental Health, Clean Water Action, the Center for Science in the Public Interest, Children’s Environmental Health Network, Environmental Working Group, and Improving Kids’ Environment, proposing that we amend our food additive regulation to no longer provide for the use of three specific perfluoroalkyl ethyl containing food-contact substances (FCSs) as oil and water repellants for paper and

paperboard for use in contact with aqueous and fatty foods.

DATES: The food additive petition was filed on January 7, 2015.

FOR FURTHER INFORMATION CONTACT: Paul Honigfort, Center for Food Safety and Applied Nutrition (HFS–275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1206.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348(b)(5)), we are giving notice that we have filed a food additive petition (FAP 4B4809), submitted by the Natural Resources Defense Council, 1152 15th St. NW., Suite 300, Washington, DC 20005; the Center for Food Safety, 303 Sacramento St., Second Floor, San Francisco, CA 94111; Clean Water Action, 144 Eye St. NW., Suite 400, Washington, DC 20005; the Center for Science in the Public Interest, 1220 L St. NW., Suite 300, Washington, DC 20005; Children’s Environmental Health Network, 110 Maryland Ave. NE., Suite 402, Washington, DC 20002; the Breast Cancer Fund, 1388 Sutter St., Suite 400, San Francisco, CA 94109–5400; the Center for Environmental Health, 2201 Broadway, Suite 302, Oakland, CA, 94612; Environmental Working Group, 1436 U St. NW., Suite 100, Washington, DC 20009; and Improving Kids’ Environment, 1915 West 18th St., Indianapolis, IN 46202. The petition proposes that we amend § 176.170 (21 CFR 176.170) to no longer provide for the use of three perfluoroalkyl ethyl containing food-contact substances (FCSs) as oil and water repellants for paper and paperboard for use in contact with aqueous and fatty foods. The three FCSs which are the subjects of this petition are as follows:

1. Diethanolamine salts of mono- and bis (1*H*,1*H*,2*H*,2*H* perfluoroalkyl) phosphates where the alkyl group is even-numbered in the range C8–C18 and the salts have a fluorine content of 52.4 percent to 54.4 percent as determined on a solids basis;

2. Pentanoic acid, 4,4-bis [(*gamma-omega*-perfluoro-C8–20-alkyl)thio] derivatives, compounds with diethanolamine (CAS Reg. No. 71608–61–2); and

3. Perfluoroalkyl substituted phosphate ester acids, ammonium salts formed by the reaction of 2,2-bis[(*gamma*), (*omega*)-perfluoro C4–20 alkylthio] methyl]-1,3-propanediol, polyphosphoric acid and ammonium hydroxide.

II. Amendment of § 176.170

In accordance with procedures specified in § 171.130 (21 CFR 171.130) for amending or revoking a food additive regulation, the petition asks us to amend § 176.170 so that it would no longer provide for the use of three perfluoroalkyl ethyl containing FCSs as oil and water repellants for paper and paperboard for use in contact with aqueous and fatty foods. If we determine that new data are available regarding the toxicity of these FCSs that justify amending § 176.170 so that it would no longer allow their use, we will publish such an amendment of the regulation in the **Federal Register**, as set forth in § 171.130 and § 171.100 (21 CFR 171.100).

We have determined under 21 CFR 25.32(m) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: March 9, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05938 Filed 3–13–15; 8:45 am]

BILLING CODE 4164–01–P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

21 CFR Parts 170, 177, and 189

[Docket No. FDA–2015–F–0537]

Natural Resources Defense Council et al.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by the Natural Resources Defense Council, Center for Food Safety, Clean Water Action, Children’s Environmental Health Network, Center for Science in the Public Interest, Breast Cancer Fund, Center for Environmental Health, Environmental Working Group, and Improving Kids’ Environment, proposing that we amend our regulation to no longer provide for the use of potassium perchlorate as an additive in closure-sealing gaskets for food containers, revoke the Threshold of Regulation exemption No. 2005–006 to no longer exempt the use of sodium