

Dated: December 5, 1996.
William E. Ludwig,
Administrator, Food and Consumer Services.
Dated: December 20, 1996.
Stephen B. Dewhurst,
Director, Office of Budget and Program
Analysis.

Dated: December 20, 1996.

Keith Collins,
Chief Economist.

Dated: December 23, 1996.

Dan Dager,
*Acting Executive Assistant to the Under
Secretary for Food, Nutrition, and Consumer
Services.*

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Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV-96-929-2FR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Change in Reporting Requirements

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the reporting requirements currently prescribed under the cranberry marketing order. The marketing order regulates the handling of cranberries grown in 10 States and is administered locally by the Cranberry Marketing Committee (committee). This rule allows the committee to collect receipt and inventory information from handlers on a different species of cranberries. This rule will provide more accurate information to the cranberry industry to be used in making marketing decisions.

EFFECTIVE DATE: This final rule becomes effective February 6, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kathleen M. Finn, Marketing Specialists, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-1509, Fax #(202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456;

telephone (202) 720-2491; Fax #(202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 929 (7 CFR part 929), as amended, regulating the handling of cranberries grown in 10 States, 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This final 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule 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 approximately 25 handlers of cranberries who are subject to regulation under the marketing order

and approximately 1,400 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, 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 having annual receipts of less than \$500,000. The majority of handlers and producers of cranberries may be classified as small entities.

Handlers are already required to complete a form four times a year reporting all regulated cranberries on hand for a specified period, all cranberries acquired and sold, and the new balance of cranberries on hand. This rule authorizes adding data to this form requiring information on a new variety of cranberries not regulated under the order. The form has an estimated burden time of two hours. No additional burden time will be added to this form to acquire this information. In addition, because the industry relies on the comprehensive information provided by the committee, it is critical that the committee obtain accurate information. This information will be used in making marketing decisions and the additional burden on handlers, if any, will not be significant.

Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This final rule changes the reporting requirements currently prescribed under the cranberry marketing order. This rule allows the committee to collect receipt and inventory information from handlers on a different species of cranberries. This rule will provide more accurate information to the cranberry industry to be used in making marketing decisions. The committee unanimously recommended the above change.

The request for this information will be incorporated on the handler inventory report, a form already used by the committee. The request of this information should not constitute a significant burden on a business unit, large or small. Currently, the estimated reporting burden per response for the handler inventory report is two hours. The burden time will not change with the additional data request.

Section 929.62(e) of the cranberry marketing order provides authority to require handlers to furnish to the committee information with respect to acquisitions and dispositions of cranberries. This section also provides authority to require handlers to file reports to the committee as to the quantity of cranberries handled by such handler during any designated period.

Under the marketing order, cranberries are defined as all varieties of the fruit *Vaccinium macrocarpon* grown in the production area. In 1995, the cranberry industry experienced a short crop coupled with increased demand. To replace the shortage of *Vaccinium macrocarpon*, handlers have supplemented their inventories with *Vaccinium oxycoccus* which is a European species of cranberry, recognized by the Food and Drug Administration as a cranberry. Because of the increase in volume of this species of cranberry, it is important to the cranberry industry to know the amount of *Vaccinium oxycoccus* that is being acquired and utilized by handlers.

The order authorizes the committee to recommend limiting the quantities of cranberries which may be handled during any fiscal period. The Secretary would establish a volume regulation based on information received from the committee if the Secretary found that such regulation would effectuate the declared policy of the Act. The committee is considered by the industry as the source for comprehensive cranberry related data, primarily data relating to production, supplies, utilization and inventories. Therefore, it is critical to the committee to receive comprehensive information on cranberries.

The committee will be able to use this information on *Vaccinium oxycoccus* when considering its decisions to implement volume regulation within the industry. Since this species is not regulated under the order, the committee needs to know the quantities and which handlers have acquired *Vaccinium oxycoccus* in order to keep the data on the non-regulated species separate and apart from the data on the regulated species, *Vaccinium macrocarpon*.

Therefore, the committee recommended that section 929.105 be revised by adding a new subparagraph (c) that requires that handlers also report on the same form as currently filed with the committee, the total quantity of *Vaccinium oxycoccus* cranberries the handler acquired and the disposition of such cranberries. Also, the handler are required to report the respective quantities of *Vaccinium oxycoccus* cranberries and cranberry products held by the handler.

The committee and its staff are responsible for keeping information on individual handlers' inventories and receipt confidential. Information gathered by the committee, including information relating to supplies of this non-regulated species of cranberries, will only be reported in the aggregate,

along with other pertinent cranberry data.

The proposed rule concerning this action was published in the August 21, 1996, Federal Register (61 FR 43186), with a 30-day comment period ending September 20, 1996. No comments were received. The proposed rule also announced AMS's intention to request a revision to the currently approved information collection requirements issued under the marketing order. The information collection requirements contained in the referenced sections have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0581-0103.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601-674.

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

§ 929.105 [Amended]

2. In § 929.105, paragraphs (b) (1) and (2) are amended by adding the words "and *Vaccinium oxycoccus* cranberries" after the word "cranberries" everywhere they appear and paragraph (b)(2) is amended by adding the words "and *Vaccinium oxycoccus* cranberry products" after the words "cranberry products".

Dated: December 31, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-276 Filed 1-6-97; 8:45 am]

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7 CFR Part 959

[Docket No. FV96-959-1 IFR]

Onions Grown in South Texas; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the South Texas Onion Committee (Committee) under Marketing Order No. 959 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess Texas onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on August 1, 1996. Comments received by February 6, 1997, 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, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210-682-2833, FAX 210-682-5942, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-9918; FAX 202-720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone 202-720-2491; FAX 202-720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South