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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV99-929-1 IFR]

Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of a Provision on Producer Continuance Referenda Under the Cranberry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule requests comments on the temporary suspension of an order provision requiring a producer continuance referendum to be conducted on the marketing order for cranberries during the month of May 1999. The industry currently is experiencing unsettled marketing conditions due to a surplus of product. A temporary delay in holding the continuance referendum will allow the Cranberry Marketing Committee (Committee) to finalize the development of a plan to improve the marketing situation, hold producer meetings throughout the production area to update them on the situation, and begin implementing the plan.

DATES: The suspension of the last sentence in § 929.69 paragraph (d) is effective May 6, 1999, through May 31, 1999. Comments must be received by May 20, 1999 to be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Fax # (202) 720-5698 or E-mail: moab.docketclerk@usda.gov. 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:

Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530-S, P.O. Box 96456, Washington, DC 20090-6456, telephone: (202) 720-2491; Fax: (202) 720-5698 or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491; Fax: (202) 720-5698. Small businesses may request information on compliance with this regulation or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Telephone (202) 720-2491; Fax: (202) 720-5698; or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following website: <http://www.ams.usda.gov/fv/moab.html>.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 929 [7 CFR Part 929], as amended, regulating the handling of cranberries grown in 10 states. 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with 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 the date of the entry of the ruling.

This action temporarily suspends a provision in § 929.69(d) of the order which specifies the month and year when a continuance referendum should be conducted to determine if producers favor continuance of the cranberry marketing order. This action was unanimously recommended by the Committee at its March 15, 1999, meeting.

Section 929.69(d) of the order provides that the Secretary shall conduct a referendum during the month of May 1975 to ascertain whether continuance of the order is favored by the producers, and that the Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. The next continuance referendum is scheduled to be conducted in May 1999. The last continuance referendum was held in May 1995.

Section 929.69(b) of the order authorizes the Secretary to terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

At its March 15, 1999, meeting, the Committee recommended delaying the May 1999 referendum because the cranberry industry currently is experiencing significant marketing problems. Over the last few months, inventories of cranberry juice have been at record levels and producer prices have dropped significantly.

The Committee reported that, over the last five years, the industry has enjoyed increasing demand for cranberry products, primarily due to the success of numerous cranberry juice based beverages. However, such success has

attracted additional production. With increased production and a leveling of demand, carry-out stocks of cranberry juice and juice products are at record levels and are predicted to increase significantly over the next few years. The Committee reported that carryout stocks at the end of August were approximately 1.2 million (mill.) barrels (bbls) in 1997, 2.1 mill. bbls in 1998, and are projected to be 2.7 and 3.2 mill. bbls in 1999 and 2000, respectively. The Committee also reported that, in recent months, producer prices have responded to this surplus by dropping from \$70–80/barrel to \$38/barrel.

The Committee plans a series of producer meetings throughout the 10-State production area to inform producers about positive actions being undertaken by the Committee to help strengthen marketing conditions. Some of these actions include proposing amendments to the order, and filing an application with the Department's Foreign Agricultural Service for Market Access Program funds to help the industry further develop export markets for cranberries and cranberry products. The industry also is working with Congress on amendments to the Act to include reporting requirements for processors and importers, and adding cranberries to the list of commodities with the authority to establish marketing research projects, including paid advertising, to more effectively promote cranberries and cranberry products.

The Committee believes that a temporary delay in holding the continuance referendum will provide time for its actions to help stabilize the current marketing situation. The Committee further believes that holding a continuance referendum in May 1999, given the current unsettled marketing situation, would not provide a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), this action suspends provisions in § 929.69(d) to postpone the May 1999 continuance referendum under the cranberry marketing order. The Department currently plans to conduct a producer continuance referendum in May 2000. However, a final decision on holding that referendum will not be made until the spring of 2000. The Committee traditionally meets each year during the months of February or March to assess the current marketing situation and prospects for the upcoming season. The Committee's assessment of marketing conditions at that time will be used in making the final decision. In accordance with § 929.69(d) of the order, a

continuance referendum is required to be held in May 2003.

The Regulatory Flexibility Act and Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 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 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 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which include 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.

This action temporarily suspends a provision in the order requiring a producer referendum to be held in May 1999 to determine whether producers favor continuance of the order.

Section 929.69(d) of the order provides that the Secretary shall conduct a referendum during the month of May 1975 to ascertain whether continuance of the order is favored by the producers, and that the Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. The next continuance referendum is scheduled to be conducted in May 1999. The last continuance referendum was held in May 1995.

Section 929.69(b) of the order authorizes the Secretary to terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

At its March 15, 1999, meeting, the Committee recommended delaying the May 1999 referendum because the cranberry industry currently is experiencing significant marketing problems. Over the last few months,

inventories of cranberry juice have been at record levels and producer prices have dropped significantly.

The Committee reported that, over the last five years, the industry has enjoyed increasing demand for cranberry products, primarily due to the success of numerous cranberry juice based beverages. However, such success has attracted additional production. With increased production and a leveling of demand, carry-out stocks of cranberry juice and juice products are at record levels and are predicted to increase significantly over the next few years. The Committee reported that carryout stocks at the end of August were approximately 1.2 million (mill.) barrels (bbls) in 1997, 2.1 mill. bbls in 1998, and are projected to be 2.7 and 3.2 mill. bbls in 1999 and 2000, respectively. The Committee also reported that, in recent months, producer prices have responded to this surplus by dropping from \$70–80/barrel to \$38/barrel.

The Committee plans a series of producer meetings throughout the 10-State production area to inform producers about positive actions being undertaken by the Committee to help strengthen marketing conditions. Some of these actions include proposing amendments to the order, and filing an application with the Department's Foreign Agricultural Service for Market Access Program funds to help the industry further develop export markets for cranberries and cranberry products. The industry also is working with Congress on amendments to the Act to include reporting requirements for processors and importers, and adding cranberries to the list of commodities with the authority to establish marketing research projects, including paid advertising, to more effectively promote cranberries and cranberry products.

The Committee believes that a temporary delay in holding the continuance referendum will provide time for its actions to help stabilize the current marketing situation. The Committee further believes that holding a continuance referendum in May 1999, given the current unsettled marketing situation, would not provide a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), this action suspends provisions in § 929.69(d) to postpone the May 1999 continuance referendum under the cranberry marketing order. The Department currently plans to conduct a producer continuance referendum in May 2000. This should serve as an alternative to just suspending the May 1999 continuance referendum. However, a

final decision on holding that referendum will not be made until the spring of 2000. The Committee traditionally meets each year during the months of February or March to assess the current marketing situation and prospects for the upcoming season. The Committee's assessment of marketing conditions at that time will be used in making the final decision. In accordance with § 929.69(d) of the order, a continuance referendum is required to be held in May 2003.

This rule will not impose any additional recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements imposed by Part 929 have been previously approved by OMB and assigned OMB Number 0581-0103.

Committee meetings are widely publicized throughout the cranberry industry and are open to all industry members and entities (including both small and large business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Like all Committee meetings, the March 1999 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Committee itself is composed of eight members, of which seven members are growers and one represents the public.

After consideration of all available information, and pursuant to section 929.69(b), it is found that the second sentence in section 929.69(d), does not tend to effectuate the declared policy of the Act for the period specified herein and should be temporarily suspended.

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 60 days after publication in the **Federal Register** because: (1) The suspension needs to be

effective as soon as possible since the month of May is specified in the order as the period in which to conduct a continuance referendum; and (2) this rule provides a 15-day comment period and any comments received will be considered prior to finalization of this rule.

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:

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

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

Authority: 7 U.S.C. 601–674.

2. In § 929.69, paragraph (d), the words, “The Secretary shall conduct such a referendum during the month of May of every fourth year thereafter.” are suspended effective May 6, 1999, through May 31, 1999.

Dated: April 29, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–11230 Filed 5–4–99; 8:45 pm]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 99–26]

RIN 3069–AA–82

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation governing the operation of the Affordable Housing Program (AHP or Program) to make certain technical revisions clarifying Program requirements and improving the operation of the AHP.

DATES: The interim final rule shall be effective on June 4, 1999. The Finance Board will accept written comments on this interim final rule on or before July 6, 1999.

ADDRESSES: Mail comments to Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, NW, Washington DC 20006. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Deputy Director, (202) 408–2848, or Janet M. Fronckowiak, Associate Director, (202) 408–2575, Program Assistance Division, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Federal Home Loan Bank (Bank) to establish a Program to subsidize the interest rate on advances to members of the Federal Home Loan Bank System engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. See 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the operation of the Program. See *id.*

On August 4, 1997, the Finance Board published a final AHP regulation adopting comprehensive revisions to the Program, see 12 CFR part 960, which, among other changes, authorized the 12 Banks, rather than the Finance Board, to approve applications for AHP subsidies beginning January 1, 1998. See 62 FR 41812 (Aug. 4, 1997). On May 20, 1998, the Finance Board published an interim final rule amending the regulation to make certain technical revisions clarifying Program requirements and improving the operation of the AHP. See 63 FR 27668 (May 20, 1998). The interim final rule was adopted as a final rule, with several changes, and will become effective June 1, 1999.

In the course of implementing the changes to the Program under the recent revisions to the AHP regulation, the Banks and Finance Board staff have identified a number of additional technical issues whose resolution would clarify Program requirements and improve the effectiveness of the Program. This interim final rule addresses those issues. Although the interim final rule will become effective 30 days after the date of publication in the **Federal Register**, the Finance Board requests comment on all aspects of the interim final rule during a 60-day comment period.