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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV99-929-1 FIR]

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: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which temporarily suspended an order provision requiring a producer continuance referendum to be conducted on the marketing order during the month of May 1999. The industry currently is experiencing unsettled marketing conditions due to a surplus of product. The temporary delay in holding the continuance referendum is allowing 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.

EFFECTIVE DATE: July 29, 1999.

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, as amended (7 CFR part 929), 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 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.

The action temporarily suspended 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 was 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 provided 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 have provided a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), the interim final rule suspended 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 final 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 the 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 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.

The interim final rule temporarily suspended 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 was 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 provided 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 have provided a true indicator of support for and the value of the order.

Pursuant to § 929.69(b), this action suspended 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 action did 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.

The interim final rule concerning this action was published in the **Federal Register** (64 FR 24023, May 5, 1999) with an effective date of May 6, 1999, through May 31, 1999. Copies of the rule were mailed by the Committee's staff to all Committee members and cranberry producers. In addition, the rule was made available through the Internet by the Office of the **Federal Register**. That rule provided for a 15-day comment period which ended May 20, 1999. No comments were received.

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

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

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

Accordingly the interim final rule amending 7 CFR part 929 which was

published at 64 FR 24023 on May 5, 1999, is adopted as a final rule without change.

Dated: June 17, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99-16508 Filed 6-28-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 98

[Docket No. 98-102-2]

Limited Ports; Memphis, TN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On April 30, 1999, the Animal and Plant Health Inspection Service published a direct final rule. (See 64 FR 23178-23179, Docket No. 98-102-1). The direct final rule notified the public of our intention to amend the animal importation regulations by adding Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as: June 29, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Morley H. Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8686; or e-mail: morley.h.cook@usda.gov.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 24th day of June 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-16499 Filed 6-28-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NM-45-AD; Amendment 39-11212; AD 99-14-04]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-300 and -400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747-300 and -400 series airplanes. This action requires repetitive inspections of the E-42 satellite communications (SATCOM) rack and fuselage (supporting) structure to detect cracking in the area surrounding the fastener holes, and to detect broken and missing fasteners; and corrective actions, if necessary. This amendment is prompted by reports indicating that cracking and broken and/or missing fasteners were found on the E-42 SATCOM equipment rack structure that attaches to the fuselage structure. The actions specified in this AD are intended to detect and repair cracking of the E-42 SATCOM rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane.

DATES: Effective July 14, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 14, 1999.

Comments for inclusion in the Rules Docket must be received on or before August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 99-NM-45-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.