

consumption by humans and all seed potatoes imported into the United States. An assessment rate of 3 cents per hundredweight shall be levied on the fresh weight equivalents of imported frozen or processed potatoes for ultimate consumption by humans. The importer of imported tablestock potatoes, potato products, or seed potatoes shall pay the assessment to the board through the U.S. Customs Service and Border Protection at the time of entry or withdrawal for consumption of such potatoes and potato products into the United States.

\* \* \* \* \*

(3) \* \* \*

Tablestock potatoes, frozen or processed potatoes, and seed potatoes	Assessment	
	Cents/cwt	Cents/kg
0701.10.0020 .....	3.0	0.066
0701.10.0040 .....	3.0	0.066
0701.90.1000 .....	3.0	0.066
0701.90.5010 .....	3.0	0.066
0701.90.5020 .....	3.0	0.066
0701.90.5030 .....	3.0	0.066
0701.90.5040 .....	3.0	0.066
0710.10.0000 .....	6.0	0.132
2004.10.4000 .....	6.0	0.132
2004.10.8020 .....	6.0	0.132
2004.10.8040 .....	6.0	0.132
2005.20.0070 .....	4.716	0.104
0712.90.3000 .....	21.429	0.472
1105.10.0000 .....	21.429	0.472
1105.20.0000 .....	21.429	0.472
2005.20.0040 .....	21.429	0.472
2005.20.0020 .....	12.240	0.27
1108.13.0010 .....	27.0	0.595

\* \* \* \* \*

Dated: July 21, 2009.

**David R. Shipman,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. E9-17804 Filed 7-24-09; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1218

[Document Number AMS-FV-09-0021; FV-09-704]

#### Blueberry Promotion, Research, and Information Order; Assessment Increase

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to amend the Blueberry Promotion, Research, and Information Order (Order) to increase the assessment rate on producers and

importers who produce or import more than 2,000 pounds of highbush blueberries annually from \$12 per ton to \$24 per ton. The increase provided under the Order is authorized by the Commodity Promotion, Research, and Information Act of 1996 (Act). The U.S. Highbush Blueberry Council (Council) which administers the Order recommended this action to expand their promotional activities and add an advertising component to bridge the potential gap between highbush blueberry demand and future supply. Furthermore, the Council recommended to use the additional revenue to strengthen existing consumer, food service, and food manufacturer publicity; to expand their health research; to develop an educational campaign on good management practices and food safety within the United States as well as internationally.

**DATES:** Comments must be received by September 25, 2009.

**ADDRESSES:** Interested persons are invited to submit written comments on the Internet at: <http://www.regulations.gov> or to the Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (Department), Room 0632-S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250-0244; facsimile: (202) 205-2800. 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 above office during regular business hours or can be viewed at <http://www.regulations.gov>. All comments received will be posted without change, including any personal information provided.

#### FOR FURTHER INFORMATION CONTACT:

Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632-S, Washington, DC 20250-0244; telephone: (888) 720-9917; facsimile: (202) 205-2800; or electronic mail: [Jeanette.Palmer@ams.usda.gov](mailto:Jeanette.Palmer@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Blueberry Promotion, Research, and Information Order [7 CFR Part 1218]. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7401-7425].

#### Executive Order 12866

The Office of Management and Budget (OMB) has waived the review process

required by Executive Order 12866 for this action.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have retroactive effect and will not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

The Act provides that any person subject to an order may file a written petition with the Department if they believe that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law. In any petition, the person may request a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the petitioner resides or conducts business shall have the jurisdiction to review the Department's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

#### Initial Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service has considered the economic impact of this action on the small producers, first handlers, and importers that would be affected by this rule. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms as those having annual receipts of no more than \$7 million. There are approximately 2,000 producers, 200 first handlers, 50 importers, and 4 exporters of highbush blueberries subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration. Most importers, first handlers, and exporters would not be classified as small businesses. Producers who produce less than 2,000 pounds of highbush blueberries annually are exempt from this program. Importers who import less than 2,000 pounds of fresh and frozen highbush blueberries annually are also exempt from this program.

Under the current Order, domestic producers and importers who produce or import more than 2,000 pounds of highbush blueberries annually are required to pay an assessment to the Council. The current assessment rate is \$12 per ton levied on highbush blueberries produced within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States and on imports of more than 2,000 pounds into the United States. Assessments under the program are used by the Council to finance promotion, health research and communication programs designed to increase consumer demand for highbush blueberries in the United States and international markets. The assessment rate of \$12 per ton which became effective on August 16, 2000, generates approximately \$2.4 million in annual revenues. The Order is administered by the Council with oversight by the Department.

The Council has made projections of funds generated at the current \$12 per ton on forecasted highbush blueberry production increases. Based on these projections, the Council has calculated that the domestic market promotion budget would not increase sufficiently in the next few years to accomplish the Council's expanded market promotion goal of adding a meaningful advertising campaign to the highbush blueberry industry. The funds are distributed as follows: a 15 percent allocation to administration and general expenses; a 20 percent allocation to research; and a 65 percent allocation to market promotion.

Currently, the Council and the North American Blueberry Council (NABC) share office space which is a cost effective measure for both organizations which allows the Council to keep administration and general expenses within 15 percent or less of the budget. The NABC signed a lease for new office space and NABC and the Council will relocate in June 2009. As a result, the Council will save an estimated \$8,715 on rental fees annually. The Council has also changed meeting locations to less expensive places in order to cut costs. For example, the Council is currently considering whether to keep future meetings at airport hub locations such as Atlanta, Georgia. Even with such cost-cutting measures, the Council still requires additional revenue to maintain and expand its promotional and research activities.

The Council believes that additional revenue is required to aggressively promote the consumption of a growing supply of highbush blueberries, expand

health research and marketing among consumers and industrial users within the United States and international countries, and increase educational effort in the areas of good management practices and food safety. The Council approved the proposed assessment rate of \$24 per ton at its February 28, 2009, meeting. This proposed increase is consistent with section 517 (d) of the Act that permits changes in the assessment rate through notice and comment rulemaking procedures. Section 1218.52 (c) of the Order states that assessments are to be levied at a rate of \$12 per ton on all highbush blueberries. The assessment rate may be reviewed and modified with the approval of the Secretary of Agriculture (Secretary).

The Council made this recommendation in light of projected 2008 highbush blueberry production totals that continue to set historic production levels. The Council stated that successive large highbush blueberry crops have led to increased inventory levels and a weakening of the market. Using data from the NABC's Blueberry Statistical Record, in 2007, the North American highbush blueberry industry produced 356 million pounds of highbush blueberries, an increase of 16 million pounds over the previous record of 340 million pounds produced in 2006. Based on most recent estimates from the NABC Blueberry Statistical Record, the 2008 highbush blueberry crop has once again surpassed records and totaled an estimated 407 million pounds.

The North American highbush blueberry production has increased more than five fold over the past 40 years from 70 million pounds in 1968 to the estimated 407 million pounds produced in 2008 and more than twice the level produced ten years ago of 185 million pounds in 1998. Domestic projections continue to show a growing supply of highbush blueberries in the years to come based upon the amount of new plantings as well as the recent enhancement of existing fields that are gradually being replaced with higher yielding varieties, or are benefiting from improved farming practices.

Based on the Council's World Blueberry Acreage and Production Report, highbush blueberry acreage in North America increased from 71,075 acres in 2005 to an estimated 95,607 acres in 2008, a 35 percent increase in just three years. The United States share of this total increased from 56,665 acres in 2005 to 74,992 acres in 2008, a 32 percent increase. Most of this acreage growth is coming from the higher yielding western and southern states.

Highbush blueberry production volume is expected to increase significantly from these regions in the coming years. Since the domestic market production for highbush blueberries is increasing, the Council recommends expanding their promotional activities by strengthening their existing consumer, food service, and food manufacturer publicity and export market promotion programs to keep highbush blueberry demand ahead of supply.

In 2008, the United States exported 13,791 metric tons of fresh highbush blueberries worth over \$69 million. Canada is the principal destination for United States exports—accounting for nearly 84 percent of the total in 2008. Other key markets included the United Kingdom at 7 percent and Japan at 6 percent of the total. The remaining 3 percent of the United States exports were sent mostly to Asian countries.

The United States exports of frozen highbush blueberries totaled 5,785 metric tons in 2008 and were valued over \$17 million. The largest United States export market for frozen highbush blueberries is Canada which accounted for 47 percent of the total quantity exported in 2008. Japan was the second largest United States market accounting for 39 percent. The remaining 14 percent of United States exports were sent mainly to other Asian, United Kingdom, and European countries.

In 2008, the United States imported 45,105 metric tons of fresh highbush blueberries worth over \$229 million. The largest imports of highbush blueberries came from Chile which accounted for 61 percent of the total in 2008. Other major suppliers of fresh highbush blueberries were Canada at 19 percent and Argentina at 17 percent of the total. The remaining 3 percent of imported highbush blueberries came from New Zealand and Uruguay.

The United States imports of frozen highbush blueberries totaled 19,152 metric tons in 2008 and were valued over \$64 million. The bulk of the United States frozen highbush blueberries imports came from Canada which accounted for 78 percent of total in 2008. Other major suppliers of frozen highbush blueberries were Chile with 16 percent of the total, Argentina with 5 percent and the Netherlands with 1 percent.

According to the Council, assessments received in 2008 reached \$2.4 million. Of the total, the Council received \$830,222 from import assessment collections which is approximately 35 percent of the Council's total budget. The Council has projected import assessment collections at \$850,000 for the 2009 budget year.

In the international market, highbush blueberry production has increased in Canada, Mexico, Latin America, Europe, and Asia. The highbush blueberry acreage worldwide has nearly doubled in the past five years from an estimated 83,299 acres in 2003 to an estimated 163,065 acres in 2008. Based on the data in the Council's 2007–2008 World Acreage and Production Report, North America represented 77 percent of the total worldwide highbush blueberry acreage in 2003 (64,360 acres), but just 59 percent of the estimated total acreage in 2008 (95,607 acres).

Most of the worldwide growth over the past five years has taken place in South America which has increased acreage from an estimated 6,939 acres in 2003 to an estimated 39,703 acres in 2008, a nearly six fold increase with the largest growth in Chile and Argentina. Most of the growth in European production, which has increased from 8,978 acres in 2003 to 18,038 in 2008, has taken place in Spain, Germany, and Poland. Asian highbush blueberry production has increased during this five-year period from 2,372 acres to 7,870 acres with most of the growth taking place in China and to a lesser extent Japan. Acreage in Australia and New Zealand has not significantly increased during this period.

Given worldwide acreage estimates, projections show that given optimal conditions with no crop losses or disruptions, total worldwide highbush blueberry production has the potential to increase from an estimated 606 million pounds in 2008 to an estimated 1.5 billion pounds by the year 2015, more than two times the current level of production in the next seven years. This total does not include lowbush (wild) blueberry production, which at the current time averages around 200 million pounds per year. These projections are considered “optimal” forecasts and are based on the potential of what has been planted to date as well as upon assumptions of favorable crop years in all international highbush blueberry growing regions. During this period North American highbush blueberry production is estimated to increase from 407 million pounds in 2008 to 890 million pounds by the year 2015, more than two times the current level of production. With expanded worldwide production of highbush blueberries projected to increase supply, the Council recommends that additional revenue be used to explore new markets internationally as well as find new uses and applications for highbush blueberries in the United States.

Even though the highbush blueberry production is expected to increase over

the next few seasons, the rate of increase should begin to slow as planting is expected to decline over this time period, as it is traditionally the case with other crops that have experienced the same growth patterns as the current one enjoyed by the highbush blueberry industry. However, a corresponding rapid growth in per capita consumption over the next seven years will be needed to keep pace with domestic and international highbush blueberry production in order to maintain a supply and demand balance. The Council believes that if they do not conduct more aggressive promotional efforts, the total demand may fall short of the projected supply.

Due to the domestic and international highbush blueberry production increase, the effect of the highbush blueberry supply is reflected in current frozen highbush blueberry inventory. The most recent Department's National Agricultural Statistic Service Public Cold Storage Report (Report), shows February 2009 inventory of frozen highbush and lowbush blueberries at 130 million pounds, an increase of 36 million pounds over the total of 94 million pounds held in inventory at the same time in 2008. Given the anticipated size of the 2008 highbush blueberry crop, carry in inventory at the start of the 2008 season, and projected movement of the 2008 crop (even at levels above those recorded in previous years), the Council projects a significant increase in carry out inventory at the start of the 2009 domestic highbush blueberry season. Although fresh highbush blueberry demand and movement in the United States continues to increase and frozen highbush blueberry exports have been increasing over the past three seasons, there are still increased amounts of highbush blueberries in cold storage, particularly over the last three years. This trend is expected to continue unless efforts are taken to more aggressively promote highbush blueberries and work toward a more balanced supply and demand situation.

The Council has found the increase in the highbush blueberry interest reflected in per capita consumption increases in the United States. According to the NABC Statistical Record 2007, the United States has seen impressive gains in per capita consumption over the past ten years. Total highbush blueberry consumption both fresh and processed has increased by 68 percent from slightly over 13 ounces per person in 1997 to just over 22 ounces per person in 2007. Most of this increase has been in the fresh market with fresh consumption nearly doubling over this

period from 4.8 ounces per person to an estimated 9.2 ounces per person. During this same period, process (frozen) highbush blueberry consumption was up 55 percent from 8.4 ounces to 13 ounces per person.

With the proposed increased assessment rate, the financial commitment of the United States highbush blueberry industry for generic research and promotion activity would increase 100 percent in current dollars. For example, if the Council applies the proposed assessment increase to the 2008 crop year, in which collections totaled \$2.4 million, the increase in assessments collected would have been approximately an additional \$2.4 million for a total of \$4.8 million. The Council plans to use additional funds to broaden current promotional programs with consumers, food service, and food manufacturers within the United States and international countries. Furthermore, the Council plans to add an advertising component to expand the reach and frequency of highbush blueberry messages and explore new and evolving media options offered through the Internet and web-based communications. The Council is currently supporting age-related disease and vision studies with a number of universities the additional funding will enable human clinical research trials to begin. By changing the assessment rate to \$24 per ton, the Council stated that the additional funding will allow for a greater educational effort in the areas of good management practices and food safety.

According to the Department's National Agricultural Statistic Service Noncitrus Fruits and Nuts 2008 Preliminary Summary notes the United States price per pound for fresh highbush blueberries in 2008 totaled \$2.11 per pound and \$0.859 per pound for processed highbush blueberries. Using these prices, the proposed \$12 per ton assessment rate increase will cost the producer approximately .006 cents per pound which represents an increase of approximately .003 percent of the total fresh price per pound and .007 percent of the total processed price per pound.

Section 1218.55 of the Order requires the Council to conduct an independent evaluation of the effectiveness of the program conducted by the Council pursuant to the Act every five years. The Council submits the independent evaluation to the Department which is available to the public. An econometric evaluation titled “An Economic Analysis of Domestic Market Impacts of the U.S. Highbush Blueberry Council” was conducted by Dr. Harry Kaiser of

Cornell University in 2005. The study evaluated the Council's progress based on data from 2001 to 2004. The estimated demand equation used in the study was simulated to determine the market impacts of the Council's promotion activities for the period of 2001 to 2004. In the baseline scenario, promotion expenditures were set equal to actual levels from 2001 to 2004. In another scenario without the Council's marketing activities, promotion expenditures were set equal to zero for the same period. The difference between the two scenarios gives the total impact of the Council promotion programs on domestic highbush blueberry commercial disappearance. The simulation results indicated that the Council had a major impact on annual highbush blueberry demand in the United States. From 2001 to 2004, the Council's promotion activities increased total highbush blueberry commercial disappearance by 36 million pounds, or 9 million pounds per year. This represents an annual increase in highbush blueberry commercial disappearance of almost three percent during this period. The study concluded that the promotional spending by the Council clearly had a positive effect on domestic highbush blueberry demand.

The evaluation also indicated that generic highbush blueberry promotion by the Council had a positive impact on the highbush blueberry growers' price over this period. The average increase in price ranged from 2.3 cents per pound in the case of the least elastic supply response, to 0.8 cents per pound in the case of the most elastic supply response. The average impact over all supply responses was 1.4 cents per pound. According to the evaluation, had there not been generic highbush blueberry promotion by the Council, the average growers' price would have been 1.4 cents per pound, or 1.8 percent, lower from 2001 to 2004.

The benefits of the Council program were highlighted using a Benefit Cost Ratio (BCR) analysis. An average BCR was computed for the generic promotion activities of the Council, and the BCR exceeded 1.0 for every supply response considered in the simulation. For the least elastic supply response, the average BCR was 13.22. This implies that, on average over the period 2001–2004, the benefits of the Council promotion programs have been over 13 times greater than the costs. At the opposite end of the spectrum in supply response, the average BCR was computed to be 4.46, implying that the benefits of the Council were over four times greater than the costs. Given the wide range of supply responses

considered in the analysis, and the fact that the BCR was above 1.0 in all cases, there is significant evidence that the Council's promotion programs have been profitable for the domestic highbush blueberry industry.

According to the Council, such findings give added confidence that an expanded market promotion program will help the industry to work toward a supply and demand balance in the coming years as highbush blueberry production expands at an increasing rate.

With regards to alternatives, the Council evaluated a media plan designed to advertise to consumers nationwide with a proposed rate of \$18 per ton on highbush blueberries. At this assessment rate level, the Council could continue to support its current market promotion efforts and add a \$1 million media budget for advertising. This level would result in 45 percent reach and a frequency of 4 of the target audience which is 18 million out of the 40 million of the United States population. The Council discussed the rate of \$18 per ton and determined that the highbush blueberry potential supply and demand situation would require a need to create greater awareness than the level that could be generated at \$18 per ton. Therefore, the Council decided to recommend the rate of \$24 per ton on highbush blueberries which is the first assessment increase since the Council was established in August 2000.

This rule does not impose additional recordkeeping requirements on producers, first handlers, exporters, or importers of highbush blueberries. Producers of fewer than 2,000 pounds of highbush blueberries and importers of less than 2,000 pounds of fresh and frozen highbush blueberries annually are exempt.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities, and we invite comments

concerning potential effects of this amendment on small businesses.

## Background

Under the Order, the Council administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the position of highbush blueberries in the marketplace, and to establish, maintain, and expand markets for highbush blueberries. This program is financed by assessments on producers growing 2,000 pounds or more of highbush blueberries and importers who import 2,000 or more pounds of highbush blueberries per year. The Order specifies that handlers are responsible for collecting and submitting the producer assessments to the Council and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Council on highbush blueberries imported into the United States through the U.S. Customs Service and Border Protection.

This rule proposes to increase the assessment rate to \$24 per ton for producers and importers who produce and import more than 2,000 pounds of highbush blueberries annually. Currently, the assessment rate is \$12 per ton levied on highbush blueberries produced within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States and imports of more than 2,000 pounds into the United States. In order to expand promotion, health research, new uses and applications for highbush blueberries, and education about good management practices for food safety, the Council believes that additional revenue is needed. The proposed \$24 per ton assessment rate increase is estimated to generate \$2.4 million in new revenue for a total of \$4.8 million depending on production levels. For the 2008 crop year, total production was 408 million pounds of highbush blueberries resulting in \$2.4 million in assessment collections. Of the total, the Council received \$830,222 from import assessment collections which is approximately 35 percent of the Council's total budget. The Council has projected import assessment collections at \$850,000 for the 2009 budget year. With the additional revenue, the Council would continue to dedicate 65 percent of their budget to market promotions and expand its existing promotional programs directed to consumers, food service and food manufacturers and add an advertising component to reach consumers nationwide, as well as internationally.

Also, the Council would invest additional funds to explore new uses and applications for highbush blueberries in the domestic and international markets. Furthermore, the Council stated that it will use the additional resources to expand the health research studies.

Furthermore, the Council whose members represent all highbush blueberry producing states as well as importers voted to increase the assessment rate at its February 28, 2009, meeting. The vote to recommend the assessment increase was nine in favor and two against of the Council members present at the meeting. The two voters against the change expressed concern about how the growers might respond to an assessment increase given the overall economic climate the industry is facing and noted how an assessment increase might impact voting on the program continuance referendum in 2011. One of the two dissenters noted that in a meeting held in his region prior to the Council's meeting, the growers had discussed and supported the \$18 per ton assessment rate increase, but did not discuss the \$24 per ton increase. Accordingly, he did not feel comfortable voting for the change. Both dissenting voters stated that they were willing to support an \$18 per ton assessment increase instead of the proposed \$24 per ton.

The Council evaluated a media plan designed to advertise to consumers nationwide with a proposed rate of \$18 per ton on highbush blueberries. At this assessment rate level, the Council could continue to support its current market promotion efforts and add a \$1 million media budget for advertising. This level would result in 45 percent reach and a frequency of 4 of the target audience which is 18 million out of the 40 million of the United States population. The Council discussed the rate of \$18 per ton and determined that the highbush blueberry potential supply and demand situation would require a need to create greater awareness than the level that could be generated at \$18 per ton. Therefore, the Council voted to recommend the rate of \$24 per ton on highbush blueberries which is the first assessment increase since the Council was established in August 2000.

If adopted, the Council's recommended assessment rate would be applicable to the 2010 highbush blueberry crop. The higher assessment rate on the 2010 crop would generate additional dollars allocated for the 2011 budget year. The Council plans to increase the domestic marketing budget beginning that year to \$4 million which would allow for as much as \$2 million

allocation to advertising to increase the frequency of the Council's message. According to the Council, this increase would gain greater awareness for highbush blueberries.

This rule would amend the rules and regulations under the Order. The rate would increase the assessment from \$12 per ton to \$24 per ton on highbush blueberries. This proposed increase is consistent with section 517(d) of the Act that permits changes in the assessment rate through notice and comment procedures. Section 1218.52(c) of the Order state assessments can be levied at a rate of \$12 per ton on all highbush blueberries. The assessment rate will be reviewed and may be modified with the approval of the Secretary.

The Council is recommending the proposed assessment rate increase for the following reasons: (1) A potential gap between highbush blueberry demand and future supply in the United States; (2) efforts are necessary to strengthen the Council's existing consumer, food service, and food manufacturer publicity and export market promotion programs and add an advertising component to expand the reach and frequency of the highbush blueberry message; (3) the Council plans to invest additional revenue to explore new markets both domestic and international, as well as to explore new uses and application for highbush blueberries; (4) to expand its investment in more health research and move to human clinical trials to discover additional product attributes; and (5) added funding will allow for greater educational effort in the critical areas of good management practices and food safety. Accordingly, section 1218.52(c) of the Order would be revised.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

#### List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 1218, Chapter XI of Title 7 is proposed to be amended as follows:

#### PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1218 continues to read as follows:

**Authority:** 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

2. In § 1218.52, paragraph (c) is revised to read as follows:

#### § 1218.52 Assessments.

\* \* \* \* \*

(c) Such assessments shall be levied at a rate of \$24 per ton on all blueberries. The assessment rate will be reviewed, and may be modified with the approval of the Secretary, after the first referendum is conducted as stated in § 1218.71(b).

\* \* \* \* \*

Dated: July 21, 2009.

**David R. Shipman,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. E9–17802 Filed 7–24–09; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE–2008–BT–TP–0020]

RIN 1904–AB89

#### Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces and Boilers

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of proposed rulemaking and public meeting.

**SUMMARY:** In order to implement recent amendments to the Energy Policy and Conservation Act (EPCA), the U.S. Department of Energy (DOE) proposes to amend its test procedures for residential furnaces and boilers to provide for measurement of standby mode and off mode energy consumption. Specifically, the proposed amendments would incorporate into the DOE test procedures the International Electrotechnical Commission's (IEC) Standard 62301, *Household electrical appliances—Measurement of standby power* (First Edition 2005–06), as well as language to clarify application of this standard for measuring standby mode and off mode power consumption in furnaces and boilers. In addition, the proposed amendments would add new calculations to determine annual energy consumption associated with standby mode and off mode measured power. Finally, the amendments would modify existing energy consumption equations to integrate standby mode and off mode energy consumption into the calculation of overall annual energy consumption of