

Revenue Code allows you to reduce your salary (through an employer allotment) and provide that portion of your salary back to your employer. Instead of being paid to you as taxable income, this allotted amount is used to purchase your FEHB insurance for you. The effect is that your taxable income is reduced. Because taxable income is reduced, the amount of tax you pay is reduced. You save on Federal income tax, Social Security and Medicare tax and in most States and localities, State and local income taxes.

#### **PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM**

■ 6. The authority citation for part 894 continues to read as follows:

**Authority:** 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604.

■ 7. In § 894.101, the definitions for “Domestic partner” and “Domestic partnership” are removed and the definition for “Stepchild” is revised to read as follows:

##### **§ 894.101 Definitions.**

\* \* \* \* \*

*Stepchild* means your spouse’s child born within or outside marriage or his or her adopted child. The child of your spouse shall continue to be considered your stepchild after your divorce from your spouse or the death of your spouse so long as the child continues to live with you in a regular parent-child relationship.

\* \* \* \* \*

■ 8. In § 894.403, paragraph (a) is revised to read as follows:

##### **§ 894.403 Are FEDVIP premiums paid on a pre-tax basis?**

(a) Your FEDVIP premiums are paid on a pre-tax basis (called premium conversion) if you are an active employee, your salary is sufficient to make the premium allotments, and your agency will be able to make pre-tax allotments.

\* \* \* \* \*

[FR Doc. 2018–14938 Filed 7–11–18; 8:45 am]

**BILLING CODE 6325–63–P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 929**

[Doc. No. AMS–SC–17–0066; SC17–929–3 FR]

#### **Cranberries Grown in States of Massachusetts, et al.; Establishment of Handler Diversion and Reporting Requirements and New Information Collection**

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements a recommendation to establish handler diversion and reporting requirements under the marketing order for cranberries grown in the production area (Order). This action establishes the procedures handlers use to divert fruit through disposal or into noncompetitive outlets. The reporting requirements support the diversion procedures by providing the necessary documentation to help ensure compliance when a volume regulation is established.

**DATES:** Effective August 13, 2018.

##### **FOR FURTHER INFORMATION CONTACT:**

Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: [Doris.Jamieson@ams.usda.gov](mailto:Doris.Jamieson@ams.usda.gov) or [Christian.Nissen@ams.usda.gov](mailto:Christian.Nissen@ams.usda.gov).

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

**SUPPLEMENTARY INFORMATION:** This final rule, pursuant to 5 U.S.C. 553, amends regulations used to carry out a marketing order as defined in 7 CFR 900.2(j). This final rule is issued under Marketing Agreement and Order No. 929, as amended (7 CFR part 929), regulating the handling of 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. Part 929 (referred to as 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 Committee locally administers the Order and is comprised of growers of cranberries operating within the production area, and a public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect.

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.

This final rule establishes handler diversion and reporting requirements under the Order. This rule establishes procedures handlers use to divert fruit through disposal or into noncompetitive outlets. The reporting requirements support the diversion procedures by providing the necessary documentation to help ensure compliance when a volume regulation is established. This action was recommended by the Committee at its August 31, 2017, September 15, 2017, and October 13, 2017, meetings.

The Order provides for the use of volume regulation to stabilize prices and improve grower returns during periods of oversupply. Section 929.51(a)(2) specifies that a handler withholding program must be

recommended by the Committee no later than August 31 and that such recommendation shall include the free and restricted percentages for the crop year. On August 31, 2017, the Committee met and recommended free and restricted percentages of 85 percent free and 15 percent restricted. Handler diversion is one method that handlers can utilize to meet restricted percentage requirements.

Section 929.54 provides, in part, that whenever the Secretary of Agriculture (Secretary) has fixed the free and restricted percentages for any fiscal period, each handler shall withhold from handling a portion of the cranberries acquired during such period. This section also provides the authority for the Committee to establish, with the approval of the Secretary, rules and regulations necessary to administer this section. Section 929.56 provides special provisions relating to withheld (restricted) cranberries, and § 929.57 provides authority for the Committee to establish, with the approval of the Secretary, outlets for withheld cranberries which are noncompetitive with outlets for unrestricted (free percentage) cranberries.

Section 929.62 provides, in part, authority to require handlers to submit reports of cranberries acquired, held in inventory, quantity handled, total cranberries withheld from handling, the portion of such withheld cranberries on hand, and the quantity and manner of disposition of any such withheld cranberries diverted. Section 929.62(f) further provides authority for the Committee, with the approval of the Secretary, to collect other reports and information from handlers needed to perform its duties.

This final rule uses these authorities to establish new §§ 929.157 and 929.162. Section 929.157 establishes the procedures to be used for handler diversion when free and restricted percentages are instituted. Section 929.162 requires handlers of cranberries, during years when free and restricted percentages are applied, to report to the Committee diversion plans and year-end reports, information on cranberries diverted and cranberries shipped to noncompetitive outlets, and other information to verify compliance with the program, using six specific Committee forms.

The Committee recommended establishing free and restricted percentages under a handler withholding volume regulation for the 2017–18 season in response to historically high inventory levels for cranberries. As this is the first time the Committee has used this volume

regulation provision under the Order, it recognized the need to establish procedures outlining the diversion requirements for restricted fruit.

Free percentage cranberries can be used to supply any available market, including juice, sweetened dried cranberries, sauce, and frozen cranberries. Restricted percentage cranberries can be diverted through disposal or utilized in markets that are noncompetitive with free cranberries. Possible outlets for restricted cranberries include, in part, for fresh export, except to Canada; charity; research and development projects; and any nonhuman food use. Handlers also have the option to divert processed products in lieu of fresh fruit to meet up to 50 percent of their restricted obligation.

At the 2017 meetings in August, September, and October, the Committee discussed the handler diversion procedures and the associated reporting requirements necessary to help ensure compliance with a free and restricted percentage volume regulation. As a result, the Committee developed and approved six specific forms and related procedures to be used during seasons when free and restricted percentages are established for volume regulation.

Committee members discussed the need for Committee staff to know how handlers plan to meet their restricted percentage obligation and if, at the end of the season, they met their diversion requirement. As a result, the Committee developed two specific forms to be added to the reporting requirements under the Order.

With the first form, the Handler Withholding Report (CMC–JUN), handlers provide information on how they plan to meet their restricted percentage obligation. The form will be submitted to the Committee by June 1 during years with established free and restricted percentages and requires the following information: The name and address of the handler, the amount of cranberries to be acquired, the amount of cranberries to be diverted by disposal, the amount of cranberries to be diverted to noncompetitive outlets, and the types of cranberry products to be withheld. The Committee will use this information to estimate the amount of fruit that will be taken off the market, the proposed disposition of the fruit, and as a starting point for tracking handler compliance.

The second form, the Final Handler Withholding Report (CMC–AUG), will be submitted by the end of the crop year. The report requires the same information as the Handler Withholding Report but provides the Committee with

the actual year-end seasonal totals. This form is due by August 31. The final report will be used to verify that handlers met their restricted percentage obligation.

Handlers have several diversion options available to meet their restricted percentage obligation. One method of diversion available to handlers is the disposal of fresh cranberries or cranberry products. In its discussions, Committee members expressed concern regarding verifying the accuracy of the amount of fruit or processed product diverted using this method. The Committee recommended that all disposals take place under the supervision of a non-industry-related third party who will review the handler's disposal documentation, witness the disposal whenever possible, and certify as to the completion of the disposal process. The Committee initially agreed to hire two inspectors to supervise and verify handler compliance. However, due to the size of the production area, the Committee hired four inspectors, one from each of the primary growing regions, who will perform these tasks. The inspection and verification costs will be paid by the handler.

To facilitate this process, the Committee recommended establishing another form. This form, the Handler Disposal Certification (CMC–DISP), will be the primary form used to initiate, track, and certify this method of diversion during years in which a free and restricted percentage volume regulation has been established. The form will be used to notify the Committee of the handler's intent to dispose of cranberries or cranberry products. Information required on the form include the handler's name and address; the amount of fruit to be diverted; the type of cranberry product to be diverted; the amount of processed fruit diverted, if any; and the lot identification information.

Upon receipt of the form, the Committee office will notify the inspector in the handler's growing region. The inspector will contact the handler to schedule a date for the disposal to take place, usually within a week of receipt of the notification. The inspector will meet with the handler on that date to verify the documentation provided and, when possible, witness the disposal.

The Committee recognized that, due to scheduling conflicts, the inspector may not be available to visually witness each disposal of restricted cranberries. Therefore, the Committee agreed that, should the inspector not be available to witness the diversion within seven

days, the handler may proceed with the disposal. The inspector will then verify and complete the certification upon the inspector's next visit to the handler's facility. If the cranberries or cranberry product were disposed of at a landfill, through composting, incineration, at a wastewater treatment facility, or any other site, the inspector may request receipts, visual proof, or any other additional information needed to support the disposal as reported on the form. Once the verification process is completed, the inspector will sign the certification section of the form, and return it to the Committee.

Another method of diversion available is to divert cranberries or cranberry products to noncompetitive outlets. Section 929.57 specifies that cranberries withheld from handling may be disposed of only through diversion to such outlets as the Committee, with the approval of the Secretary, finds are noncompetitive to outlets for unrestricted (free percentage) cranberries. The Committee discussed various outlets and recommended the following: Foreign countries, except Canada; charitable institutions; any nonhuman food use; and research and development projects approved by the Committee dealing with the development of foreign and domestic markets, including but not limited to dehydration, radiation, freeze drying, or freezing of cranberries. The Committee further recommended that cranberries may not be converted into canned, frozen, or dehydrated cranberries or other cranberry products by any commercial process when being diverted to foreign countries. The specific outlets are being considered under a separate rulemaking action.

The Agricultural Marketing Service (AMS) submitted and received OMB's approval on the five initial forms. Handlers complete the forms and submit them to the Committee for purposes of tracking compliance with the handler withholding requirement. OMB approved the forms on October 16, 2017, and assigned them OMB No. 0581-0304. Upon full completion of the forms-approval process, AMS will seek to merge the five forms into the OMB-approved 0581-0189 Fruit Crops containing other forms related to the Federal marketing order for cranberries.

Two specific reporting requirements relating to the diversion of fruit to noncompetitive outlets are added to part 929: A Handler Application for Outlets for Withheld Fruit (CMC-OUT) and a Third-Party Confirmation of Receipt of Withheld Fruit (CMC-CONF). Should a handler elect to divert cranberries or cranberry products to noncompetitive

outlets, the handler must first request Committee approval of the outlet or research project using the Handler Application for Outlets for Withheld Fruit prior to each disposal activity of this type. Information requested on the form includes, among other things, the handler's name and address, information identifying the noncompetitive outlet, the amount and type of cranberry products to be diverted, and how the cranberries will be utilized. The Committee will review the information and approve or disapprove the diversion request.

If the request is approved and the product is delivered, the receiving outlet needs to acknowledge receipt of the product by completing the Third-Party Confirmation of Receipt of Withheld Fruit form, and the handler then returns the completed form to the Committee.

The two above-described reporting requirements help track the disposition of withheld cranberries in noncompetitive outlets and facilitates the compliance process under the recommended handler withholding.

The last form approved by the Committee provides handlers a method for appealing any decision made by the Committee relating to the diversion process. Should a handler disagree with a Committee decision, such as denying the request for approval of a noncompetitive outlet, or a determination that diversion could not be verified, the handler can appeal the decision by submitting a Handler Withholding Appeal form (CMC-APPL). The handler making the appeal is required to submit the form within 30 days of receiving the determination from the Committee. This form includes information about why the handler is making the appeal and provides additional information to support the appeal. The appeal request is reviewed by an Appeals Subcommittee (Subcommittee) for re-consideration. The Subcommittee consists of two independent growers, two members from the major cooperative, and one public member. The handler will be notified of the Subcommittee's determination within 30 days. If the appeal is denied by the Subcommittee, the handler has the option of appealing the decision to the Secretary within 15 days after the notification of the Subcommittee's findings.

In order to enable the Committee to inform the industry of the information needed for handlers to manage their inventories in a way that complies with the industry-supported handler withholding program, the five initial forms were previously submitted to

OMB for approval. These five forms (CMC-JUN, CMC-DISP, CMC-OUT, CMC-CONF and CMC-APPL) were approved by OMB on October 16, 2017, for use for a six-month period, beginning the date of approval. This final rule is necessary for the industry to use the forms beyond the six-month period.

Establishing these handler diversion and reporting requirements facilitates the implementation of, and ensures compliance with, free and restricted percentages when recommended by the Committee.

### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), 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 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 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 approximately 1,100 cranberry growers in the regulated area and approximately 65 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average grower price for cranberries during the 2016-17 crop year was \$23.50 per barrel, and total sales were around 9.5 million barrels. The value for cranberries that crop year totaled \$223,250,000 (\$23.50 per barrel multiplied by 9.5 million barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers (1,100) provides an average return per grower of \$202,955. Based on USDA's Market News reports, the average free on board (f.o.b.) price for cranberries was around \$30.00 per barrel. Multiplying the f.o.b. price by total utilization of 9.5 million barrels results in an estimated handler-level cranberry value of \$285 million. Dividing this figure by the number of handlers (65) yields an estimated average annual handler receipt of \$4.3

million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of growers and handlers of cranberries may be classified as small entities.

This final rule establishes handler diversion and reporting requirements under the Order. This final rule establishes procedures handlers will use to divert fruit through disposal or into noncompetitive outlets. The reporting requirements support the diversion procedures by providing the necessary documentation to help ensure compliance when a volume regulation is established. This rule establishes new §§ 929.157 and 929.162. The authority for this action is provided in §§ 929.54, 929.56, 929.57, and 929.62.

These actions could result in some additional costs to the industry. Specifically, handlers could incur some additional costs as a result of inspector verification and certification of the diversion process. In addition, requiring reports of cranberries acquired, handled, and withheld imposes an increase in the reporting burden on all cranberry handlers. However, the benefits are expected to outweigh the costs and increase in reporting burden. The provisions considered in this action will help facilitate the implementation of any recommended handler withholding volume regulation and help ensure compliance with the recommended regulation. Consequently, these changes will help provide important guidance during times when market conditions support the need for establishing volume regulation.

The impact of this rule will be beneficial to growers and handlers. Establishing diversion procedures benefits the entire industry by ensuring handler diversion is conducted consistently and accurately by all handlers, which also helps ensure compliance with the handler withholding program. Authorizing various diversion outlets means handlers are not required to divert cranberries only through destruction. Instead, fruit can be utilized in noncompetitive outlets, such as for charitable purposes. The benefits of this rule are expected to be equally available to all cranberry growers and handlers, regardless of their size, and are greater than any associated costs.

The Committee discussed other alternatives to this action, including using different methods of ensuring accurate diversion of restricted fruit. One method considered was allowing handlers to self-report their diversion of restricted fruit without a formal verification process. However, the Committee deemed this insufficient

verification to ensure compliance with the program. Members were concerned that fruit could be re-routed to a different handling facility for processing, and without established verification procedures, the industry would not have confidence that restricted fruit was being properly diverted. The Committee also considered the value and importance of each of the forms and whether all were required. However, the Committee agreed each of the recommended forms provide important information for the industry and for administering the Order. Therefore, these alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this collection has been submitted to OMB for approval. The five currently approved forms in 0581-0304 and one additional form will be merged with forms currently approved under OMB No. 0581-0189, Fruit Crops. This final rule establishes the use of six new reporting requirements and six new Committee forms, which impose a total annual burden increase of 38.4 hours. The forms, “Handler Withholding Report,” “Handler Disposal Certification,” “Handler Application for Outlets for Withheld Fruit,” “Third-Party Confirmation of Receipt of Withheld Fruit,” “Handler Withholding Appeal,” and “Final Handler Withholding Report,” require the minimum information necessary to effectively carry out the requirements of the Order. The information will enable the Committee to ensure compliance when a volume regulation is established.

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.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. Further, the public comment received concerning the proposal did not address the initial regulatory flexibility analysis.

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.

Further, the Committee’s meetings were widely publicized throughout the cranberry industry, and all interested persons were invited to attend the meetings and participate in Committee

deliberations on all issues. Additionally, the Committee’s meetings held August 31, September 15, and October 13, 2017, were public meetings, and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on February 15, 2018 (83 FR 6800). Copies of the proposed rule were sent via email to Committee members and cranberry handlers. Finally, the proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending April 16, 2018, was provided to allow interested persons to respond to the proposal.

Two comments were received which did not address the merits of the proposed rule. Accordingly, no changes will be made to the rule as proposed based on the comments received.

The proposed rule contained administrative revisions to the Order’s subpart headings to bring the language into conformance with the Office of Federal Register requirements. These revisions are not included in this rule as they were included in a final rule published in the **Federal Register** on April 4, 2018 (83 FR 14350).

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/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation of 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:

#### **PART 929—CRANBERRIES GROWN IN 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 part 929 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Add § 929.157 to read as follows:

**§ 929.157 Handler diversion.**

(a) *Methods of diversion.* Handlers may divert cranberries by disposing of cranberries or cranberry products. Diversion by disposal may take place prior to placing the cranberries into the processing line or after processing. Handlers may also divert cranberries or cranberry products to approved, noncompetitive outlets for withheld fruit. Whole berries or processed products diverted must come from the current crop year. Any information collected of a confidential and/or proprietary nature would be held in confidence pursuant to § 929.65.

(1) *Diversion through disposal.* This type of diversion is to be carried out under the supervision of the Committee, and the cost of such supervision is to be paid by the handler. Handlers shall notify the Committee of their intent to dispose of cranberries or cranberry products using Form CMC–DISP as specified in § 929.162(c). Following notification, a Committee inspector will meet with the handler to verify the documentation provided and, when possible, witness the destruction. The Committee inspector may request receipts, visual proof, or any other information needed to support the disposal as reported. Once the verification process has been completed, the Committee inspector will sign the certification section of Form CMC–DISP and return it to the Committee.

(2) *Diversion through noncompetitive outlets.* To divert cranberries or cranberry products to a noncompetitive outlet, handlers must apply to the Committee using Form CMC–OUT as specified in § 929.162(d) prior to each disposal activity of this type. The Committee will review the information and approve or disapprove the diversion request. Once the cranberries or cranberry products are delivered to the approved noncompetitive outlets, the Committee must receive satisfactory documentation of the transaction using Form CMC–CONF as specified in § 929.162(e).

(b) *Committee notification and handler plan.* Any handler intending to divert cranberries or cranberry products pursuant to § 929.54 must notify the Committee of such intent and provide a plan by June 1 that shows how the handler intends to meet the restricted percentage obligation. The handler shall submit this plan using Form CMC–JUNE as specified in the reporting requirements under § 929.162(a). The handler will have until August 31 to fulfill the plan, by which time the

handler shall submit a final report detailing how the restricted percentage obligation was met using Form CMC–AUG as specified in § 929.162(b).

(c) *Request for review.* (1) If a handler is dissatisfied with a determination made by the Committee which affects such handler, the handler may submit to the Committee within 30 days after receipt of the Committee's determination, a request for a review by an appeals subcommittee composed of two independent growers and two cooperative representatives, as well as a public member. The appeals subcommittee shall be appointed by the Committee chairperson. The handler may forward with the request any pertinent materials for consideration of the appeal.

(2) The subcommittee shall review the information submitted by the handler and render a decision within 30 days of receipt of such appeal. The subcommittee shall notify the handler of its decision, accompanied by the reasons for its conclusions and findings.

(3) The handler may further appeal to the Secretary, within 15 days after notification of the subcommittee's findings, if such handler is not satisfied with the appeals subcommittee's decision. The Committee shall forward a file to the Secretary with all pertinent information related to the handler's appeal. The Secretary shall inform the handler and all interested parties of the Secretary's decision. All decisions by the Secretary are final.

■ 3. Add § 929.162 to read as follows:

**§ 929.162 Handler diversion reports.**

(a) *Handler withholding report.* Handlers shall submit to the Committee, by June 1, a handler withholding report. The report shall be submitted using Form CMC–JUN and contain the following information:

- (1) The name and address of the handler;
- (2) The amount of cranberries acquired;
- (3) The amount of cranberries withheld by disposal;
- (4) The amount of cranberries diverted to noncompetitive outlets;
- (5) The form of cranberry products withheld; and
- (6) The total withholding obligation.

(b) *Handler Withholding Final Report.* Handlers shall submit to the Committee, by August 31, a final handler withholding report. The final report shall be submitted using Form CMC–AUG and contain the following information:

- (1) The name and address of the handler;

(2) The seasonal total of cranberries acquired;

(3) The seasonal total of cranberries withheld by disposal;

(4) The seasonal total of cranberries diverted to noncompetitive outlets;

(5) The form of cranberry products withheld during the season; and

(6) The total withholding obligation.

(c) *Handler disposal certification.* Handlers shall submit to the Committee Form CMC–DISP for each lot of cranberries or cranberry products to be diverted through disposal. The form shall contain the following information:

- (1) Name and address of the handler;
- (2) Marketable cranberries in whole fruit or processed cranberries converted to whole fruit equivalent disposed of in this lot;
- (3) Form of cranberries;
- (4) Volume if in processed form;
- (5) Lot details;
- (6) Disposal site and method; and
- (7) Inspector certification of the completion of the disposal.

(d) *Handler application for outlets for withheld fruit.* Handlers shall submit to the Committee Form CMC–OUT for approval for each lot of cranberries or cranberry products to be diverted to noncompetitive outlets in accordance with § 929.57. The form shall contain the following information:

- (1) Name and address of the handler;
- (2) Project type;
- (3) Product form;
- (4) Quantity of cranberries in whole fruit or processed cranberries converted to whole fruit equivalent diverted;
- (5) A description of the project and how the cranberries will be used.

(e) *Third-party confirmation of receipt of withheld fruit.* Handlers shall submit to the Committee Form CMC–CONF for each diversion to a noncompetitive outlet to verify the receipt of the cranberries or cranberry product by the approved outlet. The form shall contain the following information:

- (1) Name and address of the handler;
- (2) Project type;
- (3) Product form;
- (4) Quantity of cranberries in whole fruit or processed cranberries converted to whole fruit equivalent utilized; and
- (5) Confirmation or documentation of receipt from the receiving outlet.

(f) *Handler withholding appeal.* Handlers may appeal a determination made by the Committee relating to a handler withholding regulation using the appeals process outlined in § 929.157(c) and Form CMC–APPL, which shall contain the following information:

- (1) Name and address of the handler;
- (2) Reason for appeal; and
- (3) Information in support of appeal.

Dated: July 9, 2018.

**Bruce Summers,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2018-14939 Filed 7-11-18; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2018-0588; Product Identifier 2017-NM-105-AD; Amendment 39-19328; AD 2018-14-08]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777-200LR series airplanes. This AD requires revising certain documents to provide revised operating limitations. For certain airplanes, modification of the water and fuel scavenge systems in the fuel tanks, electrical changes in the main equipment center, and installation of new electrical load management system (ELMS2) software is an acceptable alternative to the documents revision. This AD was prompted by reports of unreliable performance of the water and fuel scavenge systems. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 27, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 27, 2018.

We must receive comments on this AD by August 27, 2018.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0588.

#### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0588; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Kevin Nguyen, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3555; email: [Kevin.Nguyen@faa.gov](mailto:Kevin.Nguyen@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

Operators have reported unreliable performance of the water and fuel scavenge systems. During flight, any water in the fuel can sink to the bottom of the fuel tank. This water can enter the fuel scavenge inlets and can then freeze as it travels from the body center fuel tank into the colder fuel scavenge tubes in the left and right cheek center fuel tanks (outboard of the side of body ribs). The frozen water can restrict the flow of scavenge fuel from the center fuel tank to the main fuel tanks, causing the fuel flow to decrease or stop. When this occurs, as much as 700 pounds of fuel can remain unavailable during flight. If the flightcrew is not aware that this fuel is unavailable and the fuel quantity decreases to the quantity of the unavailable fuel, then fuel exhaustion will occur, which could lead to subsequent power loss of all engines due to loss of capability to scavenge fuel in the center fuel tank.

#### Related Rulemaking

We issued AD 2016-11-03, Amendment 39-18530 (81 FR 34867, June 1, 2016) (“AD 2016-11-03”), that applied to certain Boeing Model 777-200LR series airplanes equipped with or without auxiliary fuel tanks. For airplanes with auxiliary fuel tanks, variable numbers WD049-WD053 inclusive only, AD 2016-11-03 requires modification of the water and fuel scavenge systems after removal of the auxiliary fuel tanks. This AD requires incorporation of revised operating limitations for those airplanes, which terminates the associated requirements of AD 2016-11-03. This AD also provides the option of modifying the water and fuel scavenge systems in the fuel tanks, making electrical changes in the main equipment center, and installing new ELMS2 software after removal of the auxiliary fuel tanks. Either compliance method terminates the requirements of paragraphs (g), (h), and (i) of AD 2016-11-03 for those airplanes.

Additionally, paragraph (g) of this AD requires a revision to certain documents to provide revised operating limitations for airplane variable numbers WD011 through WD015 inclusive and WD016 through WD018 inclusive. These airplanes are not affected by AD 2016-11-03, which refers to Boeing Special Attention Service Bulletin 777-28-0078, Revision 1, dated April 27, 2015, for the applicability.

Airplane variable numbers WD011 through WD015 inclusive are included in the effectivity of Boeing Special Attention Service Bulletin 777-28-0078, Revision 3, dated December 19, 2017; therefore, this AD provides a modification of the water and fuel scavenge systems in the fuel tanks, electrical changes in the main equipment center, and installation of new ELMS2 software as an acceptable alternative to the documents revision. However, there is no approved service information for airplane variable numbers WD016 through WD018 inclusive for the modification of the water and fuel scavenge systems in the fuel tanks, electrical changes in the main equipment center, and installation of new ELMS2 software; therefore, there is no alternative to the documents revision specified in this AD for these airplanes.

#### Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 777-28-0078, Revision 3, dated December 19, 2017. The service information describes