Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV–96–929–2PR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on a change to the reporting requirements currently prescribed under the cranberry marketing order. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. The marketing order regulates the handling of cranberries grown in 10 States and is administered locally by the Cranberry Marketing Committee (committee). This rule would allow the committee to collect receipt and inventory information from handlers on a different species of cranberries. This rule would provide more accurate information to the cranberry industry to be used in making marketing decisions.

DATES: Comments must be received by September 20, 1996. Pursuant to the Paperwork Reduction Act, comments to the information collection burden must be received by October 21, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kathleen M. Finn, Marketing Specialists, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456: telephone: (202) 720–1509, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 929 (7 CFR Part 929), as amended, regulating the handling of cranberries grown in 10 States, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 25 handlers of cranberries who are subject to regulation under the marketing order and approximately 1,400 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of cranberries may be classified as small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

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

This proposal invites comments on a change to the reporting requirements currently prescribed under the cranberry marketing order. This rule would allow the committee to collect receipt and inventory information from

handlers on a different species of cranberries. This rule would provide more accurate information to the cranberry industry to be used in making marketing decisions. The committee unanimously recommended the above change.

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

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

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

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

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

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request a revision to a currently approved information collection for cranberries.

Title: Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Minnesota, Oregon, Washington, and Long Island in the State of New York, Marketing Order No. 929.

OMB Number: 0581–0103.

Expiration Date of Approval: March 31, 1998.

Type of Request: Revision of a currently approved information collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the program.

This proposed rule would establish a requirement that each handler report four times a year, on a revised report provided by the committee, showing receipt and inventory information on a different species of cranberries. This information collection would provide more accurate information to the cranberry industry to be used in making marketing decisions.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarters staff, and employees of the committee. Committee employees are the primary users of the information and AMS employees are the secondary users.

Estimate of Burden: Public reporting for this proposed collection of information will not change the current form's estimated burden time of two hours.

Respondents: Handlers 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.

Estimated Number of Respondents: 1083.

Estimated Number of Responses per Respondent: 4.

Estimated Total Burden on Respondents: 874 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the cranberry marketing order and the USDA's oversight of the program; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments must be received by October 21, 1996. Comments should reference OMB No. 0581–0103 and the Cranberry Marketing Order No. 929, and be submitted to Kathleen M. Finn at the above address. All comments received will be available for public inspection during regular business hours at the same address. All responses to this note will be summarized and included in the request for OMB approval.

List of Subjects in 7 CFR Part 929

Marketing agreements, Cranberries, Reporting and recordkeeping requirements.

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

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

Authority: 7 U.S.C. 601–674.

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

§ 929.105 [Amended]

2. Section 929.105 is amended in paragraph (b) by adding the words ''and *Vaccinium oxycoccus* cranberries'' after the word ''cranberries'' everywhere the word appears and by adding the words ''and *Vaccinium oxycoccus* cranberry products'' after the words ''cranberry products.''

Dated: August 14, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21211 Filed 8–20–96; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Parts 92 and 130

[Docket No. 95–057–1]

Importation of Pet Birds

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing several changes to the regulations for importing pet birds into the United States. First, we are proposing to remove the requirement for veterinary inspection at the port of entry for all pet birds imported from Canada, including pet birds of U.S. origin that have been in Canada. We would also remove the requirement that such birds may only be imported through a designated port. For pet birds of Canadian origin, we would add the requirement that the birds be accompanied by a veterinary health certificate issued by Agriculture Canada. We are also proposing to allow pet birds imported from countries other than Canada to be maintained under home quarantine for 30 days rather than be quarantined for 30 days at a facility operated by the United States Department of Agriculture. Finally, we are proposing to allow microchip implants as a form of permanent identification for pet birds of U.S. origin. We believe these actions would facilitate the importation of pet birds, while continuing to provide protection against the introduction of communicable poultry diseases into the United States.

DATES: Consideration will be given only to comments received on or before October 21, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–057–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–057–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Tracye R. Butler, Staff Veterinarian, Import-Export Animals, National Center for Import-Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) regulate the importation of certain animals and birds, including pet birds that are imported for the personal pleasure of their individual owners and are not intended for resale, to prevent the introduction of communicable diseases of livestock and poultry.

The regulations provide different requirements for importing pet birds depending on the origin of the bird. For pet birds imported from Canada, the regulations require that, among other things, the birds must be found upon port of entry veterinary inspection to be free of poultry diseases. In order to allow for veterinary inspection, the regulations require that pet birds from Canada may only be imported through a port designated in § 92.102 or § 92.203, because these are ports where inspectors qualified to perform veterinary inspections are available. The result of this requirement has been that some pet bird owners from Canada have to travel a considerable distance to import their pet bird through a designated port of entry. This is often inconvenient and expensive for pet bird owners.

Approximately 300 pet birds are imported from Canada through designated ports each year. No communicable disease of poultry has ever been detected upon veterinary inspection at the port of entry in a pet bird from Canada. For this reason, we believe that importing pet birds from Canada without veterinary inspection at the port of entry would not pose any significant risk of introducing a communicable disease of poultry into the United States. We are, therefore, proposing to remove the requirement that birds imported from Canada must receive a veterinary inspection at the port of entry, as well as the requirement that pet birds from Canada may only be imported through designated ports.

However, as a precaution to ensure that pet birds imported from Canada do not carry communicable poultry diseases, we would require that pet birds imported from Canada must be accompanied by a veterinary health certificate issued by a veterinarian employed full-time by Agriculture Canada. The certificate would have to state that, upon inspection by an Agriculture Canada veterinarian, the bird was found free of any signs of communicable diseases of poultry. The inspection by the Agriculture Canada veterinarian must have been conducted within 30 days preceding the date of importation of the pet bird. Although it would cost a pet bird owner approximately US $9.50 (Can $13.00) to obtain this certificate, the cost is less than the average charge of US $16.50 for veterinary inspection of the pet bird at the port of entry. Also, the pet bird owner would be able to obtain the certificate at his or her convenience (within 30 days prior to importation) and would be able to import the pet bird through whatever port is most convenient to the owner.

For pet birds of U.S. origin that are returning to the United States from any country, the regulations also require that the birds be imported only through ports designated in § 92.102 or § 92.203 and that the birds receive a veterinary inspection at the port of entry. Further, if the pet birds have been outside the United States for more than 60 days, the regulations require that the birds be maintained by their owner under home quarantine for a minimum of 30 days, until they are released from quarantine by an inspector of the Animal and Plant Health Inspection Service (APHIS). For the reasons stated previously for pet birds from Canada, we are proposing to remove these requirements for pet birds of U.S. origin that have been outside the United States only in Canada. Pet birds that originated in the United States but that have been in any country other than Canada during their time outside the United States would continue to be subject to veterinary inspection at the port of entry and, if appropriate, home quarantine.

For pet birds not of U.S. origin imported from any country other than