

electronically to:
malinda.farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at: <http://www.ams.usda.gov/fv/rpdocketlist.htm>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: *Legal authority.* The Blueberry Promotion, Research, and Consumer Information Order (Order) (7 CFR part 1218) became effective on August 16, 2000 (65 FR 43961, July 17, 2000). It was issued under the Commodity Promotion, Research, and Information Act of 1996 (Act) (7 U.S.C. 7401-7425).

Executive Orders 12866 and 12988

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

In addition, this rule has been reviewed under E.O. 12988, Civil Justice Reform. The rule is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the Act, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on a petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

There are approximately 2,000 producers, 200 first handlers, 50 importers, and 4 exporters of blueberries subject to the program. Most of the producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201). Most importers and first handlers would not be classified as small businesses, and, while most exporters are large, we assume that some are small. The SBA defines small agricultural handlers as those whose annual receipts are less than \$5 million, and small agricultural producers are defined as those having annual receipts of not more than \$500,000 annually.

This proposed rule would amend the Order to change the title of the U.S.A. Cultivated Blueberry Council to the "U.S. Highbush Blueberry Council" (Council) and to add one member and alternate to the Council to represent the state of Washington.

The proposed amendments are not considered to be substantial and will not significantly impact the blueberry industry. The name change will have a positive impact on the industry. Adding a producer member and alternate representing the state of Washington means that four additional producers will be required to submit background forms to USDA in order to be considered for appointment to the Council. Four producers will be affected because two names must be submitted to the Secretary for consideration for each position on the Council. However, serving on the Council is optional, and the burden of submitting the background form would be offset by the benefits of serving on the Council. The estimated annual cost of providing the information by four producers would be \$6.00 for all four producers or \$1.50 per producer.

There are no relevant Federal rules that duplicate, overlap, or conflict with the proposed rule.

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 the proposed amendment.

Paperwork Reduction Act

In accordance with the OMB regulation (5 CFR 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the background form, which represents the information collection and recordkeeping requirements that may be imposed by this rule, was previously submitted to and approved by OMB under OMB Number 0505-0001.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0505-0001.

Expiration Date of Approval: October 31, 2003.

Type of Request: Increase in the information collection burden for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act. The burden associated with this action is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response for each producer.

Respondents: Producers.

Estimated Number of Respondents: 4.

Estimated Number of Responses per Respondent: 1 every 3 years (0.3).

Estimated Total Annual Burden on Respondents: 0.6 hours.

The estimated annual cost of providing the information by the four producers would be \$6.00 or \$1.50 per producer.

This additional burden will be included in the existing information collections approved for use under OMB Number 0505-0001.

Background

During the rulemaking process to implement the Order in 2000, members of the wild blueberry industry in Maine raised objections to the original name of the U.S.A. Blueberry Council. However, USDA did not change the name at that time, and the wild blueberry industry continued to have concerns to the generic name of the Council. Therefore, USDA issued a proposed rule to change the name of the Council to the U.S.A. Cultivated Blueberry Council on September 21, 2000 (65 FR 57104). The new name became effective on August 16, 2001, with the publication of a final rule published in the **Federal Register** on July 17, 2001 (66 FR 37117).

Subsequently, the Council was appointed and decided that the term "cultivated" in its name should be changed to "highbush" because cultivated blueberries are commonly called highbush blueberries, and wild blueberries are commonly called