

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 Nos. AO-341-A6; FV02-929-1]

Cranberries Grown in the States of Massachusetts, et al.; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Agreement and Order No. 929

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to the marketing agreement and order for cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and provides growers and processors with the opportunity to vote in a referendum to determine if they favor the changes. The amendments are based on those proposed by the Cranberry Marketing Committee (Committee), which is responsible for local administration of the order and other interested parties representing cranberry growers and handlers. This action is a partial decision on six of the proposed amendments listed in the notice of hearing. It has been determined that these amendments need to be expedited. The amendments include increasing Committee membership and related amendments. The proposed amendments are intended to improve the operation and functioning of the cranberry marketing order program.

DATES: The referendum will be conducted from January 19 to January 30, 2004. The representative period for the purpose of the referendum is September 1, 2002, through August 31, 2003. Pursuant to the Paperwork Reduction Act, comments on information collection burden that

would result from this proposal must be received by February 10, 2004.

ADDRESSES: Interested persons are invited to submit written comments concerning the information collection burden. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: moab.docketclerk@usda.gov. 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, or Fax: (202) 720-8938. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone (202) 720-2491; Fax (202) 720-8938.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing issued on April 23, 2002, and published in the May 1, 2002, issue of the **Federal Register** (67 FR 21854).

This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Preliminary Statement

The proposed amendments were formulated based on the record of a public hearing held in Plymouth, Massachusetts on May 20 and 21, 2002; in Bangor, Maine on May 23, 2002; in Wisconsin Rapids, Wisconsin on June 3 and 4, 2002; and in Portland, Oregon on June 6, 2002. The hearing was held to consider the proposed amendment of Marketing Agreement and Order No. 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, hereinafter referred to collectively as the "order." The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900). The notice of hearing contained numerous proposals submitted by the Committee, other interested parties and one proposed by the Agricultural Marketing Service (AMS). This action is a partial decision addressing a portion of the amendments listed in the notice of hearing that have been determined necessary to be expedited. Other proposed amendments listed in the notice of hearing will be addressed in a separate decision.

The proposed amendments included in this decision would: Increase Committee membership to 13 grower members, 1 public member, 9 grower alternate members and 1 public alternate member; incorporate a "swing" position whereby the group (either the major cooperative or growers representing other than the major cooperative) which handles more than 50 percent of the total volume produced is assigned an additional seat; revise nomination and selection provisions of the order, as well as quorum and voting requirements, to reflect the change in Committee membership; authorize tenure limitations to be restarted with the seating of the expanded Committee; re-establish districts and allocate the revised membership among those districts; allow the Committee to request tax identification numbers for voting purposes; authorize mail nominations for independent members; revise the alternate member provisions to reflect the change in Committee membership and for clarity purposes; and require Committee member nominee disclosure of non-regulated cranberry production.

The Fruit and Vegetable Programs of AMS proposed to allow such changes as may be necessary to the order, if any of the proposed amendments are adopted, so that all of the order's provisions conform to the effectuated amendments.

Thirty-two witnesses testified at the hearing. These witnesses represented