

Authority: 7 U.S.C. 601–674.

2. In Subpart—Control Committee Rules and Regulations, under the undesignated center heading “Definitions”, a new § 927.103 is added as follows:

§ 927.103 Organically produced pears.

Organically produced pears means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.

3. Section 927.236 is revised to read as follows:

§ 927.236 Assessment rate.

On and after July 1, 2001, an assessment rate of \$0.49 per standard box of conventionally and organically produced pears and, in addition, a supplemental assessment rate of \$0.03 per standard box of Beurre d’Anjou variety pears, excluding organically produced pears, is established for the Winter Pear Control Committee.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23657 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV01–929–3 PR]

Cranberries Grown in the States of Massachusetts, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established under the cranberry marketing order for the 2001–2002 fiscal year and subsequent fiscal years from \$.08 to \$.18 per barrel of cranberries handled. Currently, funds derived from assessments are used to cover expenses incurred by the Cranberry Marketing Committee (Committee) in the performance of its duties and functions under the order and to fund an export market development program. The Committee is responsible for local administration of the marketing order which regulates the handling of cranberries grown in the production area. The proposed \$.10

increase would be used to fund a domestic market development program. The fiscal year began September 1 and ends August 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 9, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–8938; or e-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be 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:

Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, cranberry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable cranberries beginning September 1, 2001, and continue until amended, suspended, or terminated. This rule would 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. Such 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 to review the Secretary’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 rule would increase the assessment rate established for the Committee for the 2001–2002 fiscal period and subsequent fiscal periods for cranberries from \$0.08 to \$0.18 per barrel of cranberries.

The cranberry marketing order provides that one of the duties of the Committee is to formulate an annual budget of expenses and to recommend a rate of assessment necessary to administer the provisions of the order. The members of the Committee are producers of cranberries. They are familiar with the Committee’s needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

Authority to fix the rate of assessment to be paid by each handler and to collect such assessment appears in § 928.41 of the order. In addition, § 929.45 of the order provides that the Committee, with the approval of the Secretary, may

establish or provide for the establishment of production research, marketing research, and market development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cranberries. The expense of such projects would be paid from funds collected pursuant to § 929.41 (Assessments), or from such other funds as approved by the Secretary.

For the 2000–2001 fiscal period, the Committee recommended, and the Department approved, an assessment rate of \$.08 per barrel of cranberries handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee voted by mail and recommended 2001–2002 expenditures of \$1,206,772 and an assessment rate of \$.18 per barrel of cranberries. Six of the eight committee members voted in support of the \$.10 per barrel increase. Two members did not return their mail ballots to the Committee. The assessment rate increase was considered by the Committee at an earlier public meeting. The budget for 2001–2002 was recommended to the full Committee by the Executive Committee. The major expenditures recommended by the Committee for the 2001–2002 fiscal period include \$846,953 for market development (including \$490,000 for domestic market development, \$273,953 for export market development, and \$83,000 for export market consulting services), \$123,952 for administration costs, \$129,500 for personnel, \$75,000 for Committee meetings, and \$31,367 for payroll taxes and benefits. Included in the budget calculations would be about \$6,000 interest and \$213,953 Market Access Program (MAP) funds from USDA's Foreign Agricultural Service (FAS) for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were \$223,647 for administration costs, \$270,407 for export market development, \$71,000 for export market consulting services, \$119,464 for personnel, and \$67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

The Committee recommended the \$.10 per barrel increase to fund a domestic market development program to increase demand for cranberries and cranberry products and thus expand cranberry shipments. Currently, supplies are outpacing demand. The Committee believes that a domestic

market development program is needed to increase consumer awareness of the health benefits of cranberries and cranberry products. Currently, the Committee funds an export market development program with MAP money from FAS.

Over the past several years, per capita consumption of cranberries has averaged 1.68 pounds. Per capita consumption peaked in 1994 at 1.80 pounds and began trending downward. In 1998, per capita consumption was 1.67 pounds. Associated with these per capita consumption figures is the fact that total domestic sales also peaked in 1994 at 4,692,507 barrels and declined to 4,506,632 barrels in 1998. However, cranberry production reached an all-time high of 6,389,000 barrels in 1999. This is a 17 percent increase over 1998 production of approximately 5.4 million barrels. Available cranberry supplies continue to out pace demand, resulting in high levels of carryin inventories and low grower prices. Grower returns have fallen 73 percent from 1997 to 2000, dropping from \$65.90 to \$15–\$20 per barrel.

The assessment rate recommended by the Committee was derived by estimating the cost of a viable domestic market development program (\$490,000) and then increasing the assessment rate to cover such costs. Cranberry shipments are projected at 4.9 million barrels which would provide \$882,000 in assessment income. Income derived from handler assessments, along with interest income, FAS market access funds for export market development, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses expected to total \$1,206,772 in 2001–2002. Funds in the reserve (currently \$115,000) would be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

The assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although the assessment rate would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department evaluates

Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2001–2002 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 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 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which includes handlers, are defined by the Small Business Administration (13 CFR 121.201) 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 \$750,000. The majority of cranberry handlers and producers may be classified as small businesses.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2001–2002 and subsequent fiscal periods from \$.08 to \$.18 per barrel of cranberries. One barrel equals 100 pounds of cranberries.

The Committee discussed the alternative of continuing the existing assessment rate, but concluded that it needed to implement a domestic market development program funded through assessments. The assessment rate recommended by the Committee was derived by determining the cost of a viable domestic market development program (\$490,000), and then increasing the assessment rate to cover the additional costs. Cranberry shipments are projected at 4.9 million barrels which would provide \$882,000 assessment income. Income derived from handler assessments, along with interest income, FAS market access

program funds, and funds from the Committee's authorized reserve would be adequate to cover budgeted expenses. Funds in the reserve (currently \$115,000) would be kept within the approximately one year's operational expenses permitted by the order (section 929.42(a)).

The major expenditures recommended by the Committee for the 2001–2002 fiscal period include \$846,953 for market development (including \$490,000 for domestic market development, \$273,953 for export market development, and \$83,000 for export market development consulting services), \$123,952 for administration costs, \$129,500 for personnel, \$75,000 for Committee meetings, and \$31,367 for payroll taxes and benefits. Included in the budget calculations would be approximately \$6,000 interest and \$213,953 MAP funds from FAS for export market development. Budgeted expenses in the Committee's amended 2000–2001 budget were \$223,647 for administration costs, \$270,407 for export market development, \$119,464 for personnel, and \$67,500 for Committee meetings. There was no domestic market development program for the 2000–2001 fiscal period.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the cranberry industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Board meetings, all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large cranberry handlers. 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.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop

marketing agreements and orders may be viewed at the following Web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because: (1) The 2001–2002 fiscal period began on September 1, 2001, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable cranberries handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years. All written comments timely received will be considered before a final determination is made on this matter.

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 proposed to be amended as follows:

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

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

Authority: 7 U.S.C. 601–674.

2. Section 929.239 is revised to read as follows:

§ 929.239 Assessment rate.

On and after September 1, 2001, an assessment rate of \$0.18 per barrel is established for cranberries.

Dated: September 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–23653 Filed 9–20–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV01–931–1 PR]

Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) for the 2001–2002 and subsequent fiscal periods from \$0.02 to \$0.025 per standard box of fresh Bartlett pears. The Committee locally administers the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 22, 2001.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 720–8938; or E-mail: moab.docketclerk@usda.gov. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be 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: Gary D. Olson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this