

### Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

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#### § 315.712 Conversion based on service as a Career Intern

(a) *Agency authority.* An agency may convert noncompetitively to career or career-conditional employment, a career intern who:

(1) Has successfully completed a Career Intern Program, under § 213.3202(o) of this chapter, at the time of conversion; and

(2) Meets all citizenship, suitability and qualification requirements.

(b) *Tenure on conversion.* An employee whose appointment is converted to career or career-conditional employment under paragraph (a) of this section becomes:

(1) A career-conditional employee except as provided in paragraph (b)(2) of this section;

(2) A career employee when he or she has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* An employee whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 929

[Docket No. FV00-929-5 FR]

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

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate for the Cranberry Marketing Committee (Committee) for the 2000-2001 and subsequent fiscal periods from \$.06 to \$.08 per barrel of cranberries acquired by handlers. The Committee is responsible for local administration of the marketing order which regulates the handling of cranberries grown in the production area. Authorization to assess cranberry handlers enables the Committee to incur expenses that are reasonable and

necessary to administer the program. The fiscal period began September 1 and ends August 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** December 15, 2000.

**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) 720-5698.

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) 720-5698, 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 marketing 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, 2000, and continue until amended, suspended, or terminated. This rule 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. 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 increases the assessment rate established for the Committee for the 2000-2001 and subsequent fiscal periods for cranberries from \$0.06 to \$0.08 per barrel of cranberries.

The cranberry marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. 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.

For the 1999-2000 fiscal period, the Committee recommended, and the Department approved, an assessment rate 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 assessment rate for the 1999-2000 fiscal period was increased from \$0.04 to \$0.06 cents per barrel to generate enough funds to cover increased costs due to the industry's oversupply situation. Committee expenses in 1999-2000 were initially estimated at \$548,231, but were increased to \$675,339 to cover additional meeting and other expenses related to the development of volume regulation for the 2000-2001 season.

At its June 6, 2000, meeting the Committee developed its 2000-2001 budget and assessment rate. In July, the Committee conducted a mail vote, and unanimously recommended 2000-2001

expenditures of \$778,840 and an assessment rate of \$.08 per barrel of cranberries. The expenditures and assessment rate were discussed and unanimously reaffirmed at the Committee's August 28, 2000, meeting. A further increase in the assessment rate for 2000–2001 was recommended because the Committee needs additional funds to implement volume regulation and further address the industry's oversupply situation.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include \$223,647 for administration costs, \$119,464 for personnel, and \$67,500 for Committee meetings. Budgeted expenses for these items in the 1999–2000 budget were \$130,358 for administration, \$119,807 for personnel, and \$81,700 for Committee meetings.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected barrels of cranberries acquired by handlers. Acquisitions for the year are estimated at 6,400,000 barrels which should provide \$512,000 in assessment income. Income derived from handler assessments, along with interest income, operating reserves, and funds from the Foreign Agricultural Service for export marketing programs will be adequate to cover budgeted expenses. Any excess funds will be used by the Committee to build up its operating reserve. Funds in the reserve, currently \$45,000, will be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

The assessment rate established in this rule will 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 is effective for an indefinite period, the Committee will 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 will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will

be reviewed and, as appropriate, approved by the Department.

### **The Regulatory Flexibility Act and Effects on Small Businesses**

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 final 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 include 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 \$500,000. The majority of cranberry handlers and producers may be classified as small entities.

The assessment rate for the 1999–2000 fiscal period was increased from \$0.04 to \$0.06 cents per barrel to generate enough funds to cover increased costs due to the industry's oversupply situation. Committee expenses in 1999–2000 were initially estimated at \$548,231, but had to increase to \$675,339 to cover additional meeting and other expenses related to the development of volume regulation for the 2000–2001 season.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from \$0.06 to \$0.08 per barrel of cranberries acquired by handlers. The Committee unanimously recommended 2000–2001 expenses of \$778,840. The major expenditures recommended by the Committee include \$223,647 for administration costs, \$119,464 for personnel, and \$67,500 for Committee meetings. Budgeted expenses for these items in 1999–2000 were \$130,358, \$119,807, and \$81,700, respectively.

The increased assessment rate was recommended by the Committee because the Department approved a

volume regulation for the 2000–2001 season to help stabilize marketing conditions. The Committee needs additional funds to administer the volume regulation and further address the industry's oversupply situation.

The Committee discussed the alternative of continuing the existing \$0.06 per barrel assessment rate, but concluded that the Committee could run out of funds with the implementation of a volume regulation program. The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected barrels of cranberries acquired by handlers. Acquisitions for the year are estimated at 6,400,000 barrels which should provide \$512,000 in assessment income. Income derived from handler assessments, along with interest income, operating reserves, and funds from the Foreign Agricultural Service for export marketing programs will be adequate to cover budgeted expenses. Any excess funds will be used by the Committee to build up its operating reserve. Funds in the reserve, currently \$45,000, will be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

This action increases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. 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 action imposes 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 proposed rule concerning this action was published in the **Federal Register** on November 2, 2000 (65 FR 65788). Copies of the proposed rule were also mailed or sent via facsimile to all cranberry handlers. Finally, the proposal was made available through the Internet by the Office of the Federal

Register. A 15-day comment period ending on November 17, 2000, was provided. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: <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.

After consideration of all relevant material presented, including the information and recommendation submitted by 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.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers are already receiving 2000–2001 crop cranberries from growers and the assessment rate applies to all cranberries received during the 2000–2001 crop year and subsequent seasons; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) handlers are aware of this rule which was recommended at a public meeting; and (4) a 15-day comment period was provided for in the proposed rule published in the **Federal Register** and no comments were received.

#### 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 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 929.236 is revised to read as follows:

#### **§ 929.236 Assessment rate.**

On and after September 1, 2000, an assessment rate of \$0.08 per barrel is established for cranberries.

Dated: December 8, 2000.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–31798 Filed 12–13–00; 8:45 am]

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## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 984**

**[Docket No. FV00–984–2 FR]**

#### **Walnuts Grown in California; Increased Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Walnut Marketing Board (Board) for the 2000–01 and subsequent marketing years from \$0.0118 to \$0.0134 per kernelweight pound of assessable walnuts. The \$0.0016 increase is necessary because this year's estimate of assessable walnuts is about 13 percent less than last year's estimate. The Board locally administers the Federal marketing order which regulates the handling of walnuts grown in California (order). Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year runs from August 1 through July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**EFFECTIVE DATE:** December 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; 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) 720–5698.

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)

720–5698, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 984 (7 CFR part 984), both as amended, regulating the handling of walnuts grown in California, hereinafter referred to as the “order.” The marketing agreement and order are 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, California walnut 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 walnuts beginning on August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, 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 increases the assessment rate established for the Board for the 2000–01 and subsequent marketing years from \$0.0118 to \$0.0134 per kernelweight pound of assessable walnuts. The \$0.0016 increase is necessary because this year's estimate of assessable walnuts is about 13 percent less than last year's estimate. Thus, sufficient income will not be generated at the current assessment rate for the Board to meet its anticipated expenses.