

(4) The exporter or his or her representative must keep on file at his or her office a copy of each certificate issued in his or her name and documentation showing that heat treatment was performed on packing materials in the shipment referred to in the certificate. If the coniferous solid wood packing materials were heat treated in Canada, this documentation must include a certificate issued by the Canadian Food Inspection Agency stating that the packing materials have been heat treated through a treatment process that increased the minimum core wood temperature to 56 degrees Celsius for 30 minutes. The exporter must make these documents available to an inspector upon request for a period of 1 year following the date of issuance of the certificate.

(Approved by the Office of Management and Budget under control numbers 0579-0052 and 0579-0147)

Done in Washington, DC, this 11th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1218

[FV-00-706-FR]

Blueberry Promotion, Research, and Information Order; Amendment No. 1

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the title of the U.S.A. Blueberry Council to the "U.S.A. Cultivated Blueberry Council" (Council). The purpose of this change is to avoid confusion in the industry and to clarify that only cultivated blueberries are covered by this program.

EFFECTIVE DATE: August 16, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel Rafael Manzoni, Research and Promotion Branch, FV, AMS, USDA, Stop 0244, 1400 Independence Avenue, S.W., Room 2535-S, Washington, D.C. 20250-0244; telephone (202) 720-5951, fax (202) 205-2800, or e-mail daniel.manzoni@usda.gov.

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].

Question and Answer Overview

Why Is the U.S. Department of Agriculture (USDA or the Department) Changing the Name of the Council?

The wild blueberry industry requested that USDA change the title of the Council in order to avoid confusion in the industry and to clarify that the program covers only cultivated blueberries.

Will Anything Else Change About the Program?

No. The program as published on July 17, 2000 in the **Federal Register** remains the same.

Executive Orders 12866 and 12988

This rule has been determined "not significant" for purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

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 and Paperwork Reduction Act

Final Regulatory Flexibility Analysis

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 rule will amend the Order to revise the title of the U.S.A. Blueberry Council to the "U.S.A. Cultivated Blueberry Council" (Council). All other provisions of the Order as published on July 17, 2000, in the **Federal Register** will remain the same. The amendment is not considered a substantial change that will impact the cultivated blueberry industry. The purpose of this change is to avoid confusion in the industry and clarify that only cultivated blueberries are covered by this program.

The amendment will not impose additional recordkeeping requirements on first handlers, producers, or importers or exporters of cultivated blueberries. Therefore, recordkeeping and reporting requirements for the promotion, research, and information program for cultivated blueberries will remain unchanged by this final rule.

There are no relevant federal rules that duplicate, overlap, or conflict with this final rule.

Background

The Order became effective on August 16, 2000. Under the Order, producers and importers pay an assessment of \$12 per ton on the cultivated blueberries they produce in or import into the United States. The Secretary will appoint an industry group to administer the program under USDA supervision.

Although the Order states that the program covers only cultivated blueberries and not wild blueberries, the

wild blueberry industry has continued to object, among other things, to the fact that the name of the Council does not specifically reference cultivated blueberries. The wild blueberry industry had submitted two comments on this issue, and others, in response to the first proposed rule on the Order which was published in the **Federal Register** on July 22, 1999 [64 FR 39790]. The comments were summarized in the second proposed rule on the Order, which was published in the **Federal Register** on February 15, 2000 [65 FR 7657]. The commenters requested that, throughout the proposal and in the name of the Council, the term "blueberry" be changed to "cultivated blueberry." The commenters stated that the generic use of the term "blueberry" in the Order was misleading as to the specific type of blueberry and industry segment represented by the program. These comments were denied for the reasons explained in the February 15, 2000, rule.

However, since February 2000, the wild blueberry industry continued to contact USDA officials requesting that the name changes be made. Therefore, on September 21, 2000 [65 FR 57104], USDA published a proposed rule to change the official title of the program to the "Promotion, Research and Information Order for Cultivated Blueberries" and the name of the industry group from the U.S.A. Blueberry Council to the "U.S.A. Cultivated Blueberry Council." In addition, the proposed rule provided that all references to "blueberries" in the Order would be changed to "cultivated blueberries." The deadline for comments was November 20, 2000.

In response to that proposed rule, USDA received four comments from the wild blueberry industry in favor of various aspects of the proposed rule, and six comments from the cultivated blueberry industry opposed to various aspects of the proposed rule. A summary of the comments and USDA's responses follow:

All four commenters from the wild blueberry industry stated that although the Order does not cover wild blueberries, the name U.S.A. Blueberry Council (Council) causes confusion regarding who the Council represents and which variety of blueberries it is promoting. The commenters believed that this potential confusion could adversely affect their various initiatives in support of wild blueberries. The commenters agreed with the proposal to change the Council's name of the "U.S.A. Cultivated Blueberry Council" in order to avoid any possibility of confusion.

We agree with the commenters that the Council's current name could cause confusion in the industry. Accordingly, we are adopting the proposal to change the U.S.A. Blueberry Council's name to the "U.S.A. Cultivated Blueberry Council."

Two of the four commenters from the wild blueberry industry also supported the proposals to change the title of the Blueberry Promotion, Research, and Information Order to the "Promotion, Research, and Information Order for Cultivated Blueberries," and to change every reference to blueberries in the Order to "cultivated blueberries." They believed that these changes would further distinguish the wild blueberry industry from the cultivated blueberry industry.

After further view and careful deliberation on these issues, USDA believed that these changes are not necessary. Changing the name of the Council should be sufficient to distinguish the research and promotional efforts of the wild blueberry industry from the Order's cultivated blueberry industry. The Order's definition of blueberry excludes wild blueberries, and it is not uncommon in other USDA national research and promotional programs to use a generic name for a commodity that is defined in the Order with further specificity. Accordingly, USDA is not adopting the proposals to change the name of the Blueberry Promotion, Research, and Information Order to the "Promotion, Research, and Information Order for Cultivated Blueberries," and to change every reference to blueberries in the Order to "cultivated blueberries."

Promoting blueberries generically will be consistent with other national promotion programs, such as those for milk and potatoes. Even though the federal dairy and fluid milk boards cover only cow's milk, they promote milk generically. This is because cow's milk is the most common type of milk, and other types of milk (such as goat's milk) are identified as such to commercial buyers and consumers. Similarly, the potato board promotes potatoes generically, whereas the program covers only white potatoes. Sweet potatoes are identified as such. We view the blueberry program in the same way.

All of the comments from the cultivated blueberry industry opposed the proposals on the basis that there was no need to differentiate cultivated blueberries from wild blueberries. Our explanations above address the issues raised by the commenters.

It should also be noted that USDA is not supporting or endorsing the

cultivated blueberry industry at the expense of the wild blueberry industry, as alluded to by one of the commenters. The cultivated blueberry industry voluntarily requested the Secretary to implement a national program to assess domestic and imported cultivated blueberries to increase demand for the commodity. Any agricultural commodity group, such as the wild blueberry industry, has the right to request the same type of program under the Act. In addition, the cultivated blueberry industry will finance the entire cost of the program, including the cost of this rulemaking proceeding. National research and promotion programs are considered industry self-help programs. The government's involvement is to ensure that the programs have the support of the industry affected and that the programs are carried out within the scope of their authority under the Act.

Accordingly, the proposed rule is adopted with the change discussed above.

List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Blueberries, Consumer Information, Marketing agreements, Blueberry promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1218 is amended as follows:

1. The authority citation for part 1218 continues to read as follows:

Authority: 7 U.S.C. 7401–7425.

PART 1218—BLUEBERRY PROMOTION, RESEARCH, AND INFORMATION

Subpart A—Blueberry Promotion, Research, and Information Order

§ 1218.3 [Amended]

2. In § 1218.3 the words "U.S.A. Blueberry Council" are removed and the words "U.S.A. Cultivated Blueberry Council" are added in its place and "USABC" is removed and "USACBC" is added in its place.

§ 1218.23 [Amended]

3. In § 1218.23 "USABC" is removed from the heading and the text and "USACBC" is added in its place and "U.S.A. Blueberry Council" is removed and "U.S.A. Cultivated Blueberry Council" is added in its place.

4. The undesignated center heading preceding § 1218.40 is revised to read as follows:

U.S.A. Cultivated Blueberry Council**§ 1218.40 [Amended]**

5. In § 1218.40 the words "U.S.A. Blueberry Council" are removed and the words "U.S.A. Cultivated Blueberry Council" are added in its place, and "USABC" is removed wherever it appears and "USACBC" is added in its place.

§§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77 [Amended]

6. In §§ 1218.41, 1218.42, 1218.43, 1218.44, 1218.45, 1218.46, 1218.47, 1218.48, 1218.50, 1218.51, 1218.55, 1218.56, 1218.62, 1218.70, 1218.73, 1218.75, and 1218.77, "USABC" is removed wherever it appears and "USACBC" is added in its place.

§§ 1218.52, 1218.53, 1218.54, and 1218.60 [Amended]

7. In §§ 1218.52, 1218.53, 1218.54, and 1218.60, "USABC" is removed wherever it appears and "USACBC" is added in its place.

Dated: July 11, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01-17767 Filed 7-16-01; 8:45 am]

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DEPARTMENT OF JUSTICE**8 CFR Part 3**

[EOIR No. 128P; AG Order No. 2467-2001]

RIN 1125-AA31

Motions To Reopen for Suspension of Deportation and Special Rule Cancellation of Removal Pursuant to Section 1505(c) of the LIFE Act Amendments

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) by establishing a special procedure for the filing and adjudication of motions to reopen deportation and removal proceedings to apply for suspension of deportation and special rule cancellation of removal pursuant to section 1505(c) of the Legal Immigration Family Equity Act Amendments of 2000 (LIFE Act Amendments).

DATES: *Effective date:* This interim rule is effective July 17, 2001.

Comment date: Comments must be submitted on or before September 17, 2001.

Motions to reopen under this rule must be filed on or before October 16, 2001.

ADDRESSES: Please submit written comments to Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia 22041; or e-mail comments to the following e-mail address: LIFE.1505(c)@USDOJ.GOV.

FOR FURTHER INFORMATION CONTACT:

Charles Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia 22041, telephone (703) 305-0470.

SUPPLEMENTARY INFORMATION: This rule revises the special reopening provisions previously established in 8 CFR 3.43. The revisions account for changes in eligibility established by sections 1506 and 1510 of the Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. 106-386, Div. B, tit. V, 114 Stat. 1464, 1527-29, 1531-32) (VTVPA) and section 1505(c) of the LIFE Act Amendments (Pub. L. 106-554, App. D, tit. XV, 114 Stat. 2763, 2763A-326 to 328). The rule permits aliens with reinstated final orders and aliens with newly issued final orders, where those new orders were issued based on their having reentered the United States illegally after having been removed or having departed voluntarily under an order of removal subject to reinstatement under section 241(a)(5) of the Immigration and Nationality Act (the Act), to move to reopen immigration proceedings for the sole purpose of applying for suspension of deportation or special rule cancellation of removal under section 203 of the Nicaraguan Adjustment and Central American Relief Act of 1997 (Pub. L. 105-100, 111 Stat. 2160, 2196-200) (NACARA).

Why Is the Department Issuing This Interim Rule?

Section 241(a)(5) of the Act provides for the reinstatement of a removal order against any alien who illegally reenters the United States after having been removed or having departed voluntarily under an order of removal. It also bars any alien whose removal order has been reinstated from receiving any relief under the Act, and prohibits the reopening or review of the previous order.

Section 1505(c) of the LIFE Act Amendments added a new subsection (h) to the transition provisions in

section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act (Pub. L. 104-208, Div. C, tit. III, subtit. A, 110 Stat. 30009, 3009-625) (IIRIRA). Section 309(h)(1) of IIRIRA, as so amended, provides that aliens who are otherwise eligible for suspension of deportation or special rule cancellation of removal under section 203 of NACARA shall not be barred from applying for such relief by operation of section 241(a)(5) of the Act.

Section 309(h)(2) of IIRIRA, as amended, provides that aliens who have become eligible for relief based on new subsection (h)(1) will have the opportunity to submit an additional motion to reopen, within a designated period, solely for the purpose of adjudicating the NACARA claim. Consistent with the provisions of section 203(c) of NACARA, an alien with a final order of deportation or removal who has become eligible for suspension of deportation or special rule cancellation of removal as a result of section 1505(c) of the LIFE Act Amendments may file one such motion to reopen removal or deportation proceedings on or before October 16, 2001.

This rule also clarifies that those persons eligible for relief under new section 309(h) (as added by section 1505(c) of the LIFE Act Amendments) include the classes added to section 309(c)(5)(C)(i) of IIRIRA by sections 1506(b)(3) and 1510(b) of the VTVPA. These additional classes of eligible aliens include certain spouses and children who have been battered or subjected to extreme cruelty by a NACARA section 203 applicant, or by a United States citizen or lawful permanent resident.

The VTVPA also contains an additional provision making certain classes of battered aliens who are not covered by this rule eligible to submit a motion to reopen. See section 1506(c) of the VTVPA. The Department anticipates promulgating regulations in the near future regarding relief for those aliens who are addressed in the VTVPA, but are not covered by this rule.

How Has the VTVPA Changed the Classes of Aliens Eligible for Suspension of Deportation or Special Rule Cancellation of Removal Pursuant to Section 309(c)(5)(C)(i) of IIRIRA?

The six classes of eligible aliens in section 309(c)(5)(C)(i) of IIRIRA, as amended by NACARA, are set forth in § 3.43(d)(1)-(6) of this rule. The VTVPA added two additional classes of eligible aliens, which are set forth in § 3.43(d)(7) and (8) of this rule.