

The OFR has also determined that this action does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Paperwork Reduction Act

This action does not contain a collection of information requirement under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

Congressional Review

This rule is not a major rule as defined by 5 U.S.C. 804(2). The OFR will submit a rule report, including a copy of this final rule, to each House of the Congress and to the Comptroller General of the United States as required under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act of 1986.

List of Subjects in 1 CFR Part 51

Administrative practice and procedure, Incorporation by Reference.

■ For the reasons discussed in the preamble, and under the authority of 5 U.S.C. 552(a), the Director of the Federal Register amends titles 1 through 50 of the Code of Federal Regulations as set forth below:

■ 1. Wherever it appears in titles 1 through 50, the phrase “or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.” is revised to read: “or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.”

Dated: April 6, 2004.

Raymond A. Mosley,

Director of the Federal Register.

[FR Doc. 04–8078 Filed 4–8–04; 8:45 am]

BILLING CODE 1505–01–P

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.; Order Amending Marketing Agreement and Order No. 929

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends 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. 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. The amendments include increasing Committee membership and related amendments. The amendments are intended to improve the operation and functioning of the cranberry marketing order program.

EFFECTIVE DATE: April 12, 2004.

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); Secretary's Decision and Referendum Order issued on December 4, 2003, and published in the **Federal Register** on December 12, 2003 (68 FR 69343).

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

This final rule was 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 adopts a portion of the proposed amendments listed in the Notice of Hearing that were determined necessary to be expedited. Other proposed amendments listed in the Notice of Hearing will be addressed in a separate decision.

The amendments included in this decision will: 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.

Upon the basis of evidence introduced at the hearing, a Secretary's decision was issued on December 4, 2003, directing that a referendum be conducted during the period January 19 to January 30, 2004, among growers and processors of cranberries to determine whether they favored the proposed amendments to the order. In the referendum, all amendments were favored by more than two-thirds of the growers voting in the referendum by

number and volume. Processors representing more than 50 percent of the crop also approved the amendments.

The amended marketing agreement was mailed to all cranberry handlers in the production area for their approval. The marketing agreement was approved by handlers representing more than 50 percent of the volume of cranberries handled by all handlers during the representative period of September 1, 2002, through August 31, 2003.

Small Business Considerations

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), 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 so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than \$5,000,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments on small businesses. The record indicates that these amendments will not result in additional regulatory requirements being imposed on some cranberry growers and handlers.

There are about 20 handlers currently regulated under Marketing Order No. 929. In addition, the record indicates that there are about 1,250 producers of cranberries in the current production area.

Based on recent years' price and sales levels, AMS finds that nearly all of the cranberry producers and some of the handlers are considered small under the SBA definition. In 2001, a total of 34,300 acres were harvested with an average U.S. yield per acre of 156.2 barrels. Grower prices in 2001 averaged \$22.90 per barrel. Average total annual grower receipts for 2001 are estimated at \$153,375 per grower. However, there are some growers whose estimated sales would exceed the \$750,000 threshold.

Thus, these amendments will apply almost exclusively to small entities.

Five handlers handle over 97 percent of the cranberry crop. Using Committee data on volumes handled, AMS has determined that none of these handlers qualify as small businesses under SBA's definition. The remainder of the crop is marketed by about a dozen grower-handlers who handle their own crops. Dividing the remaining 3 percent of the crop by these grower-handlers, all would be considered small businesses.

This action amends the order to: Increase Committee membership to 13 grower members, 1 public member, 9 grower alternate members, 1 public alternate member; Incorporate a "swing" position whereby the entity (either the major cooperative or the group representing other than the major cooperative) which handles more than 50 percent of the total volume of cranberries 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 non-cooperative members; Revise the alternate member provisions to reflect the change in Committee membership and for clarity purposes; and Require Committee member disclosure of non-regulated cranberry production.

The amendment to increase Committee membership to 13 grower members, 1 public member, 9 grower alternate members, 1 public alternate member will increase the Committee's size by 6 members and 1 alternate member. This will likely increase costs to the Committee with the additional members attending meetings. If alternate members are not required to attend all meetings, costs could be reduced. However, the record evidence supports increasing the Committee. The benefits of broadening the membership of the Committee and equitably allocating seats will outweigh increased costs. Since the implementation of volume regulations, more growers are expressing interest in being a part of the Committee's processes. Expansion of the Committee will allow more growers the opportunity to be involved in the process. The Committee's recommendation to not have one alternate for each member will provide appropriate district coverage for

members that cannot attend meetings while taking costs into account. By increasing the membership to 14 and establishing 4 districts, regional representation will be maintained and additional representation to the largest growing regions will be provided.

The amendment to include a member-at-large position on the Committee to the entity (either the major cooperative or the group representing other than the major cooperative) that handles more than 50 percent of the total volume of cranberries produced will provide an additional member and alternate to the dominant group. This allows for recognition that the scale of the impact increases with the volume of cranberries produced and regulated.

The amendment to reset term limitations for the current members will help maintain the experience and expertise needed so that the Committee can continue its operations with a minimum of disruptions.

The amendment to allow nominations to be conducted by mail will allow more growers greater opportunity to participate on the Committee and provide for greater participation in the voting process. Administrative Committee costs associated with holding nomination meetings would decrease.

The amendment to use growers' tax identification numbers in the voting process for the group representing other than the major cooperative will help ensure that only eligible growers qualify for nomination and the voting process.

The amendment to revise and clarify which alternates can be seated in place of absent members is necessary to conform to the change in Committee structure. In addition, it will be beneficial as it more specifically designates which member seats each alternate can replace in the member's absence.

The amendment to require Committee member disclosure of non-regulated cranberry production will ensure that growers are informed of this information prior to casting their vote to nominate a representative on the Committee.

All of these changes are designed to enhance the administration and functioning of the marketing agreement and order to the benefit of the industry. Accordingly, it is determined that the benefits of implementing these amendments will outweigh any associated costs. Costs are not anticipated to be significant.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), AMS obtained approval

from the Office of Management and Budget (OMB) for a new information collection request for Cranberries grown in 10 States, Marketing Order No. 929. The additional burden was merged into the information collection currently approved under OMB No. 0581-0189, Generic OMB Fruit Crops.

Specifically, the amendment increasing membership on the Committee increases the overall burden of completion of Committee generated forms and reports relative to Committee membership. There will be no increase in the non-regulated disclosure amendment since that will only entail an acknowledgement as to whether the member has a financial interest in non-regulated production.

The amendment authorizing mail nominations requires a nomination form and ballot to conduct mail nominations. It is estimated that there are approximately 500 growers who will be entitled to vote by mail ballot once every two years.

The amendment to require growers to submit a tax identification number requires this information to be added to the grower sales and acreage report form (Form No. CMC-GSAR-1) currently approved under OMB. With minimal amount of time needed to add this number on the form, there will be no increase in burden for growers to complete this form.

The information collection will be used only by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs' regional and headquarters staff, and authorized Committee employees. Authorized Committee employees will be the primary users of the information and AMS is the secondary user.

There were no responsive comments to the request for comments concerning the information collection burden.

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. These amendments are designed to enhance the administration and functioning of the marketing order to the benefit of the industry.

Committee meetings to consider order amendments as well as the hearing dates were widely publicized throughout the cranberry industry, and all interested persons were invited to attend the meetings and the hearing and participate in Committee deliberations on all issues. All Committee meetings

and the hearing were public forums and all entities, both large and small, were able to express views on these issues.

Civil Justice Reform

The amendments herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. The amendments will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

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 USDA 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Order Amending the Order 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

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Agreement and Order No. 929 (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.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of cranberries grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, are limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended and as hereby further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of cranberries grown in the production area; and

(5) All handling of cranberries grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Additional findings.

It is necessary and in the public interest to make these amendments to the order effective not later than one day after publication in the **Federal Register**.

A later effective date would unnecessarily delay implementation of the amendments modifying and increasing Committee membership. These amendments were deemed necessary to be expedited because the current committee structure is inadequate. Therefore, making the effective date one day after publication in the **Federal Register** will allow the amendments, which are expected to be beneficial to the industry, to be implemented as soon as possible.

In view of the foregoing, it is hereby found and determined that good cause exists for making these amendments

effective one day after publication in the **Federal Register**, and that it would be contrary to the public interest to delay the effective date for 30 days after publication in the **Federal Register** (Sec. 553(d), Administrative Procedure Act; 5 U.S.C. 551–559).

(c) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping cranberries covered by the order as hereby amended) who, during the period September 1, 2002, through August 31, 2003, handled 50 percent or more of the volume of such cranberries covered by said order, as hereby amended, have signed an amended marketing agreement; and

(2) The issuance of this amendatory order is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period September 1, 2002, through August 31, 2003 (which has been deemed to be a representative period), have been engaged within the production area in the production of such cranberries, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

(3) The issuance of this amendatory order is favored or approved by processors who, during the period September 1, 2002, through August 31, 2003 (which has been deemed to be a representative period), have engaged in canning or freezing cranberries for market and have frozen or canned more than 50 percent of the total volume of cranberries regulated which were

canned or frozen within the production area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all 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, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of the proposed marketing agreement and order further amending the order contained in the Secretary’s Decision issued by the Administrator on December 4, 2003, and published in the **Federal Register** on December 12, 2003, shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

■ Accordingly, as stated in the preamble, AMS amends 7 CFR part 929 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. Revise § 929.20 to read as follows:

§ 929.20 Establishment and membership.

(a) There is hereby established a Cranberry Marketing Committee consisting of 13 grower members, and 9 grower alternate members. Except as hereafter provided, members and alternate members shall be growers or employees, agents, or duly authorized representatives of growers.

(b) The committee shall include one public member and one public alternate member nominated by the committee and selected by the Secretary. The public member and public alternate member shall not be a cranberry grower, processor, handler, or have a financial interest in the production, sales, marketing or distribution of cranberries or cranberry products. The committee, with the approval of the Secretary, shall prescribe qualifications and procedures for nominating the public member and public alternate member.

(c) Members shall represent each of the following subdivisions of the production areas in the number specified in Table 1. Members shall reside in the designated district of the production area from which they are nominated and selected. Provided, that there shall also be one member-at-large who may be nominated from any of the marketing order districts.

District 1: The States of Massachusetts, Rhode Island, and Connecticut;

District 2: The State of New Jersey and Long Island in the State of New York.

District 3: The States of Wisconsin, Michigan, and Minnesota.

District 4: The States of Oregon and Washington.

TABLE 1

Districts	Major cooperative	Major cooperative	Other than major	Other than major
			Members	Alternates
1	2	1	2	1
2	1	1	1	1
3	2	1	2	1
4	1	1	1	1
Any	1 member-at-large			

(d) Disclosure of unregulated production. All grower nominees and alternate grower nominees of the committee shall disclose any financial interest in the production of cranberries that are not subject to regulation by this part.

(e) The committee may establish, with the approval of the Secretary, rules and

regulations for the implementation and operation of this section.

■ 3. Revise § 929.21 to read as follows:

§ 929.21 Term of office.

(a) The term of office for each member and alternate member of the committee shall be for two years, beginning on August 1 of each even-numbered year and ending on the second succeeding

July 31. *Provided,* That following adoption of this amendment, the term of office for the initial members and alternates shall also include any time served prior to August 1 of the first even numbered year served. Members and alternate members shall serve the term of office for which they are selected and have been qualified or until their

respective successors are selected and have been qualified.

(b) Beginning on August 1 of the even-numbered year following the adoption of this amendment, committee members shall be limited to three consecutive terms. This limitation on tenure shall not include service on the committee prior to the adoption of this amendment or service on the committee by the initial members prior to August 1 of the first even-numbered year served and shall not apply to alternate members.

(c) Members who have served three consecutive terms must leave the committee for at least one full term before becoming eligible to serve again unless specifically exempted by the Secretary. The consecutive terms of office for alternate members shall not be so limited.

■ 4. Revise § 929.22 to read as follows:

§ 929.22 Nomination.

(a) *Initial members.* As soon as practicable after adoption of this amendment, the committee shall hold nominations in accordance with this section. The names and addresses of all nominees shall be submitted to the Secretary for selection as soon as the nomination process is complete. Nominees selected for the initial Committee, following adoption of this amendment, shall serve a minimum of one two-year term beginning on August 1 of the first even-numbered year served.

(b) *Successor members.* Beginning on June 1 of the even-numbered year following the adoption of this amendment, the committee shall hold nominations in accordance with this section.

(c) Whenever any cooperative marketing organization handles more than fifty percent of the total volume of cranberries produced during the fiscal period in which nominations for membership on the committee are made, such cooperative or growers affiliated therewith shall nominate:

(1) Six qualified persons for members and four qualified persons for alternate members of the committee. These members and alternate members shall be referred to as the major cooperative members and alternate members. Nominee(s) for major cooperative member and major cooperative alternate member shall represent growers from each of the marketing order districts designated in § 929.20.

(2) A seventh major cooperative member shall be referred to as the major cooperative member-at-large. The major cooperative member-at-large may be nominated from any of the marketing order districts.

(3) Six qualified persons for members and four qualified persons for alternate members of the committee shall be nominated by those growers who market their cranberries through entities other than the major cooperative marketing organization. Nominees for member and alternate member representing entities other than the major cooperative marketing organization shall represent growers from each of the marketing order districts as designated in § 929.20(c).

(d) Whenever any major cooperative marketing organization handles 50 percent or less of the total volume of cranberries produced during the fiscal period in which nominations for membership on the committee are made, the major cooperative or growers affiliated therewith, shall nominate:

(1) Six qualified persons for major cooperative members and four qualified persons for major cooperative alternate members of the committee. Nominees for member and alternate member shall represent growers from each of the marketing order districts as designated in § 929.20(c).

(2) Six qualified persons for members and four qualified persons for alternate members of the committee shall be nominated by those growers who market their cranberries through entities other than the major cooperative marketing organization. Nominees for member and alternate member shall represent growers from each of the marketing order districts as designated in § 929.20(c).

(3) A seventh member nominee shall be referred to as the member-at-large representing entities other than the major cooperative marketing organization. The member-at-large may be nominated from any of the marketing order districts.

(e) Nominations of qualified member nominees representing entities other than the major cooperative marketing organization shall be made through a call for nominations sent to all eligible growers residing within each of the marketing order districts. The call for such nominations shall be by such means as are recommended by the committee and approved by the Secretary.

(1) The names of all eligible nominees from each district received by the committee, by such date and in such form as recommended by the committee and approved by the Secretary, will appear on the nomination ballot for that district.

(2) Election of the member nominees and alternate member nominees shall be conducted by mail ballot.

(3) Eligible growers shall participate in the election of nominees from the district in which they reside.

(4) When voting for member nominees, each eligible grower shall be entitled to cast one vote on behalf of him/herself.

(5) The nominee receiving the highest number of votes cast in districts two and four shall be the member nominee representing entities other than the major cooperative marketing organization from that district. The nominee receiving the second highest number of votes cast in districts two and four shall be the alternate member representing entities other than the major cooperative marketing organization from that district.

(6) The nominees receiving the highest and second highest number of votes cast in districts one and three shall be the member nominees representing entities other than the major cooperative marketing organization from that district. The nominee receiving the third highest number of votes cast in districts one and three shall be the alternate member representing entities other than the major cooperative marketing organization from that district.

(f) Nominations for the member-at-large representing entities other than the major cooperative marketing organization shall be made through a call for nominations sent to all eligible growers residing within the marketing order districts. The call for such nominations shall be by such means as recommended by the committee and approved by the Secretary.

(1) Election of the member-at-large shall be held by mail ballot sent to all eligible growers in the marketing order districts by such date and in such form as recommended by the committee and approved by the Secretary.

(2) Eligible growers casting ballots may vote for a member-at-large nominee from marketing order districts other than where they produce cranberries.

(3) When voting for the member-at-large nominee, each eligible grower shall be entitled to cast one vote on behalf of him/herself.

(4) The nominee receiving the highest number of votes cast shall be designated the member-at-large nominee representing entities other than the major cooperative marketing organization. The nominee receiving the second highest number of votes cast shall be declared the alternate member-at-large nominee representing entities other than the major cooperative marketing organization.

(g) The committee may request that growers provide their federal tax

identification number(s) in order to determine voting eligibility.

(h) The names and addresses of all successor member nominees shall be submitted to the Secretary for selection no later than July 1 of each even-numbered year.

(i) The committee, with the approval of the Secretary, may issue rules and regulations to carry out the provisions or to change the procedures of this section.

■ 5. Revise § 929.23 to read as follows:

§ 929.23 Selection.

(a) From nominations made pursuant to § 929.22(b), the Secretary shall select members and alternate members to the committee on the basis of the representation provided for in § 929.20 and in paragraph (b) or (c) of this section.

(b) Whenever any cooperative marketing organization handles more than 50 percent of the total volume of cranberries produced during the fiscal year in which nominations for membership on the committee are made, the Secretary shall select:

(1) Six major cooperative members and four major cooperative alternate members from nominations made pursuant to § 929.22(c)(1).

(2) One major cooperative member-at-large from nominations made pursuant to § 929.22(c)(2), and

(3) Six members and four alternate members from growers who market their cranberries through other than the major cooperative marketing organization made pursuant to § 929.22(c)(3).

(c) Whenever any major cooperative marketing organization handles 50 percent or less of the total volume of cranberries produced during the fiscal year in which nominations for membership on the committee are made, the Secretary shall select:

(1) Six major cooperative members and four major cooperative alternate members from nominations made pursuant to § 929.22(d)(1).

(2) Six members and four alternate members from nominations made pursuant to § 929.22(d)(2).

(3) One member-at-large representing entities other than the major cooperative marketing organization from nominations made pursuant to § 929.22(d)(3).

■ 6. Revise § 929.27 to read as follows:

§ 929.27 Alternate members.

An alternate member of the committee shall act in the place and stead of a member during the absence of such member and may perform such other duties as assigned. In the event of the death, removal, resignation, or

disqualification of a member, an alternate shall act for him/her until a successor for such member is selected and has qualified. In the event both a member and alternate member from the same marketing order district are unable to attend a committee meeting, the committee may designate any other alternate member to serve in such member's place and stead at that meeting provided that:

(a) An alternate member representing the major cooperative shall not serve in place of a member representing other than the major cooperative or the public member.

(b) An alternate member representing other than the major cooperative shall not serve in place of a major cooperative member or the public member.

(c) A public alternate member shall not serve in place of any industry member.

■ 7. Revise § 929.32 to read as follows:

§ 929.32 Procedure.

(a) Ten members of the committee, or alternates acting for members, shall constitute a quorum. All actions of the committee shall require at least ten concurring votes: Provided, if the public member or the public alternate member acting in the place and stead of the public member, is present at a meeting, then eleven members shall constitute a quorum. Any action of the committee on which the public member votes shall require eleven concurring votes. If the public member abstains from voting on any particular matter, ten concurring votes shall be required for an action of the committee.

(b) The committee may vote by mail, telephone, fax, telegraph, or other electronic means; Provided that any votes cast by telephone shall be confirmed promptly in writing. Voting by proxy, mail, telephone, fax, telegraph, or other electronic means shall not be permitted at any assembled meeting of the committee.

(c) All assembled meetings of the committee shall be open to growers and handlers. The committee shall publish notice of all meetings in such manner as it deems appropriate.

Dated: April 5, 2004.

A.J. Yates,
Administrator, Agricultural Marketing Service.

[FR Doc. 04-8072 Filed 4-8-04; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1700

RIN 2550-AA29

Organization and Functions

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Final rule.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is revising its regulations that describe the agency's organization and functions. The revisions are being made to inform the public about changes in the organizational structure of the agency and the functional responsibilities of its offices. In particular, the revisions include a summary of two new offices.

In acting on these regulations, OFHEO finds that notice and public comment are not necessary. Section 553(b)(3)(A) of title 5, United States Code, provides that when regulations involve matters of agency organization, procedure or practice, the agency may publish regulations in final form. In addition, OFHEO finds, in accordance with 5 U.S.C. 553(d), that a delayed effective date is unnecessary. Accordingly, these regulations are effective upon publication.

DATES: The final rule is effective April 9, 2004.

FOR FURTHER INFORMATION CONTACT: Alfred Pollard, General Counsel, telephone (202) 414-3800 (not a toll-free number), Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Discussion of the Final Regulation

This final rule informs the public about structural and functional changes within OFHEO that were recently implemented by the Director. Changes in the agency's structure consist of the establishment of the "Office of Compliance" and the "Office of Chief Accountant".

The Office of Compliance works to assure that the Enterprises operate in compliance with applicable laws by conducting special reviews and examinations on focused issues that may arise at the enterprises or that are of concern to OFHEO. The Office also assists in providing information for