

consisting of 12 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. The 12-member committee shall be made up of the following: One public member (and alternate), and eleven members (and alternates). With the exception of the public member and alternate, all members and their respective alternates shall be growers or employees of growers. In accordance with § 920.31(l), district representation on the committee shall be based upon the previous five-year average production in the district and shall be established so as to provide an equitable relationship between membership and districts. The committee may, with the approval of the Secretary, provide such other allocation of membership as may be necessary to assure equitable representation.

4. Revise § 920.21 to read as follows:

#### § 920.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years from the date of their selection and until their successors are selected. The terms of office shall begin on August 1 and end on the last day of July, or such other dates as the committee may recommend and the Secretary approve. *Provided*, That the terms of office of all members and alternates currently serving will end on the last day of the fiscal period in which this amended provision becomes effective, with nominations for new terms of office to be conducted as soon as practicable after the effective date of the amendment. Members may serve up to three consecutive 2-year terms not to exceed 6 consecutive years as members. Alternate members may serve up to three consecutive 2-year terms not to exceed 6 consecutive years as alternate members. *Provided*, That any term of office less than two years as a result of the amendment will not count toward tenure.

5. In § 920.22, revise the first sentence of paragraph (a) to read as follows:

#### § 920.22 Nomination.

(a) Except as provided in paragraph (b) of this section, the committee shall hold, or cause to be held, not later than June 1 of each year in which nominations are made, or such other date as may be specified by the Secretary, a meeting or meetings of growers in each district for the purpose of designating nominees to serve as grower members and alternates on the committee. \* \* \*

\* \* \* \* \*

6. Revise § 920.26 to read as follows:

#### § 920.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be selected by the Secretary after consideration of recommendations which may be submitted by the committee, unless such selection is deemed unnecessary by the Secretary. The selection shall be made on the basis of representation provided for in § 920.20.

7. Revise § 920.27 to read as follows:

#### § 920.27 Alternate members.

An alternate member of the committee, during the absence of the member for whom that individual is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event both a member and his or her alternate are unable to attend a committee meeting, the committee may designate any other alternate member from the same district to serve in such member's place and stead if necessary to secure a quorum. In the event of the death, removal, resignation, or disqualification of a member, the alternate of such member shall act for him or her until a successor for such member is selected and has qualified.

8. Revise § 920.32 to read as follows:

#### § 920.32 Procedure.

(a) Eight members of the committee, or alternates acting for members, shall constitute a quorum, and any action of the committee shall require the concurring vote of the majority of those present: *Provided*, That actions of the committee with respect to expenses and assessments, research and promotion activities, or recommendations for regulations pursuant to §§ 920.50 through 920.55 of this part shall require at least eight concurring votes.

(b) Committee meetings may be assembled or held by telephone, video conference, or other means of communication. The committee may vote by telephone, facsimile, or other means of communication. Votes by members or alternates present at assembled meetings shall be cast in person. Votes by members or alternates participating by telephone or other means of communication shall be by roll call; *Provided*, That a video conference shall be considered an assembled meeting, and votes by those

participating through video conference shall be considered as cast in person.

9. Add a new § 920.45 to read as follows:

#### § 920.45 Contributions.

The committee may accept voluntary contributions, but these shall only be used to pay expenses incurred pursuant to § 920.47. Furthermore, such contributions shall be free from any encumbrances by the donor, and the committee shall retain complete control of their use.

10. Add a new § 920.47 to read as follows:

#### § 920.47 Production research, marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production and post-harvest research, and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of kiwifruit. The expense of such projects shall be paid from funds collected pursuant to §§ 920.41 and 920.45.

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1218

[Document Number AMS-FV-09-0021; FV-09-704]

#### Blueberry Promotion, Research, and Information Order; Withdrawal of a Proposed Rule

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

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This action withdraws a proposed rule published in the **Federal Register** on July 27, 2009 (74 FR 36955), to amend the Blueberry Promotion, Research, and Information Order (Order) by increasing the assessment rate on producers and importers who produce or import more than 2,000 pounds of highbush blueberries annually from \$12 to \$24 per ton. The Order is administered by the U.S. Highbush Blueberry Council (Council). Assessments are used by the Council to fund a nationally coordinated program of research, development, advertising, and promotion of highbush blueberries in the marketplace. The Council recommended increasing the assessment rate to expand its promotional and

research activities to bridge the potential gap between demand and future supply. Several comments were received in opposition to the proposed increase in assessment rate.

Accordingly, based upon comments received, the proposed rule is being withdrawn.

**DATES:** The proposed rule published on July 27, 2009 (74 FR 36955) is withdrawn as of February 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Sonia Jimenez, Chief, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632-S, Washington, DC 20250-0244; telephone: (888) 720-9917; facsimile: (202) 205-2800; or electronic mail: [Sonia.Jimenez@ams.usda.gov](mailto:Sonia.Jimenez@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under the Blueberry Promotion, Research, and Information Order [7 CFR part 1218]. The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7411-7425].

This action withdraws a proposed rule published in the **Federal Register** on July 27, 2009 (74 FR 36955), to amend the Order by increasing the assessment rate on producers and importers who produce or import more than 2,000 pounds of highbush blueberries annually from \$12 to \$24 per ton. The Council recommended this action to expand its promotional activities and add an advertising component to bridge the potential gap between highbush blueberry demand and future supply. Furthermore, it was the Council's intent to use the additional revenue to strengthen existing consumer, food service, and food manufacturer publicity; to expand its health research; and to develop an educational campaign on good management practices and food safety within the United States as well as internationally.

During the comment period, July 27 through September 25, 2009, the Department of Agriculture received 45 timely comments. These comments may be viewed on the Internet at <http://www.regulations.gov>. Nineteen comments were opposed to increasing the assessment rate at this time and one comment supported a smaller increase of \$18 per ton.

In summary, the opposing commenters expressed concern with doubling the assessment rate in light of current, poor economic conditions. Several commenters also argued that there is no need to increase the assessment rate because revenue should

increase with the anticipated increase in production. Others raised concerns about growers being able to cover their production costs if the assessment rate doubled. Given the comments received, AMS agrees that the proposed rule increasing the assessment rate from \$12 to \$24 per ton should not be finalized. Therefore, the proposed rule is being withdrawn so as to allow further consideration by the Council. The Council should reconsider whether an increase in the assessment rate is appropriate, and if so, at what rate it should recommend any increase.

The proposed rule to amend the Order by increasing the assessment rate on producers and importers who produce or import more than 2,000 pounds of highbush blueberries annually from \$12 to \$24 per ton published in the **Federal Register** on July 27, 2009 (74 FR 36955), is hereby withdrawn.

#### List of Subjects in 7 CFR Part 1218

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

**Authority:** 7 U.S.C. 7411-7425; 7 U.S.C. 7401.

Dated: February 17, 2010.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 1218 and 1219

[Document Numbers AMS-FV-10-0006; AMS-FV-10-0007]

#### Blueberry and Hass Avocado Promotion, Research, and Information Orders; Section 610 Reviews

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

**ACTION:** Notice of reviews and request for comments.

**SUMMARY:** This document announces the Agricultural Marketing Service's (AMS) plans to review the Blueberry and Hass Avocado Promotion, Research, and Information Orders (Orders). Both reviews will be conducted under criteria contained in Section 610 of the Regulatory Flexibility Act (RFA).

**DATES:** Written comments must be received by April 26, 2010.

**ADDRESSES:** Interested persons are invited to submit written comments on

the Internet at: <http://www.regulations.gov> or to the Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Room 0632-S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250-0244; facsimile: (202) 205-2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours or it can be viewed at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 0632-S, Washington, DC 20250-0244; telephone: (888) 720-9917; facsimile: (202) 205-2800; or electronic mail: [Jeanette.Palmer@ams.usda.gov](mailto:Jeanette.Palmer@ams.usda.gov) regarding blueberries; or Maureen T. Pello, Marketing Specialist, Research and Promotion Branch, telephone: (503) 632-8848; facsimile (503) 632-8852; or electronic mail: [Maureen.Pello@ams.usda.gov](mailto:Maureen.Pello@ams.usda.gov) regarding avocados.

**SUPPLEMENTARY INFORMATION:** The Blueberry Promotion, Research and Information Order (Blueberry Order) (7 CFR part 1218) is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411-7425). The Hass Avocado Promotion, Research and Information Order (Avocado Order) (7 CFR part 1219) is authorized under the Hass Avocado Promotion, Research and Information Act of 2000 (Avocado Act) (7 U.S.C. 7801-7813).

The Blueberry Order became effective on August 16, 2000. The Order is administered by the U.S. Highbush Blueberry Council (Council) with oversight by the Department of Agriculture (USDA). The program is funded by assessments on highbush (cultivated) blueberries grown in and imported into the United States. Producers and importers pay the assessment. The producer assessment is remitted by first handlers, and the importer assessment is remitted by the U.S. Customs and Border Protection (Customs). Producers and importers who produce or import less than 2,000 pounds of highbush blueberries annually are exempt from the program. The purpose of the Order is to finance a coordinated program of promotion, research, and information to maintain and expand the market for fresh and processed cultivated blueberries in the United States and abroad.