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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV00-929-4 IFR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established for the Cranberry Marketing Committee (Committee) for the 1999-2000 and subsequent fiscal periods from \$0.04 to \$0.06 per barrel of cranberries. The Committee locally administers the marketing order which regulates 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. 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, 1999, and ends August 31, 2000. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: August 9, 2000. Comments received by October 10, 2000, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698; or E-mail: moab.docketclerk@usda.gov.

Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734-5243; Fax: (301) 734-5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

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, 1999, 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 1999-2000 and subsequent fiscal periods from \$0.04 to \$0.06 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 1996-1997 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.

In August of 1999, the Committee recommended, and the Department administratively approved, 1999-2000

expenditures of \$548,231. The Committee met on March 30, 2000, and unanimously recommended additional 1999–2000 expenditures of \$127,108 for total 1999–2000 expenditures of \$675,339 and an assessment rate of \$.06 per barrel of cranberries. An increased assessment rate has been recommended by the Committee because the industry is in a surplus situation and has recommended that a volume regulation be implemented for the 2000–2001 season. The Committee would have additional startup costs to implement such a program. Also, the Committee has held meetings to discuss the volume regulation which were not contemplated in the original budget.

The major increased expenditures recommended by the Committee for the 1999–2000 fiscal period include \$128,239 for administration costs, \$120,307 for personnel, and \$81,700 for Committee meetings. Budgeted expenses for these items in the original 1999–2000 budget were \$63,531 for administration, \$93,407 for personnel, and \$49,200 for Committee meetings.

In deriving the recommended assessment rate increase, the Committee used the actual assessable production of 6,355,413 barrels. This figure is 1,005,413 barrels more than the 5,350,413 barrels estimated at the beginning of the fiscal period. This increased rate is expected to generate an additional \$127,108 for a total of \$341,108 in assessment income. This amount plus interest income, funds from other sources, and funds in the reserve will be sufficient to cover budgeted expenses. 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 1999–2000 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 initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of cranberries who are subject to regulation under the order and approximately 1,100 producers of cranberries in the regulated area. Small agricultural service firms, which 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 businesses.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from \$0.04 to \$0.06 per barrel of cranberries. In August of 1999, the Committee recommended, and the Department administratively approved, 1999–2000 expenditures of \$548,231. On March 30, 2000, the Committee met and unanimously recommended additional expenditures of \$127,108 for total 1999–2000 expenditures of \$675,339. The assessment rate of \$0.06 is \$0.02 higher than the previous rate. The quantity of assessable cranberries for the 1999–2000 year is 6,355,413 barrels, 1,005,413 barrels more than the 5,350,000 estimated at the beginning of the fiscal period. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses.

The major increased expenditures recommended by the Committee for the 1999–2000 fiscal period include \$128,239 for administration costs, \$120,307 for personnel, and \$81,700 for Committee meetings. Budgeted expenses for these items in the original 1999–2000 budget were \$63,531 for administration, \$93,407 for personnel, and \$49,200 for Committee meetings.

An increased assessment rate has been recommended by the Committee because the industry is in a surplus situation and has recommended that a volume regulation be implemented for the 2000–2001 season. The Committee would have additional startup costs to implement such a program. Also, the Committee has held meetings to discuss the volume regulation which were not contemplated in the original budget.

The Committee discussed the alternative of continuing the existing assessment rate, but concluded that the Committee could run out of funds if a volume regulation program is implemented. In deriving the recommended assessment rate increase, the Committee used the actual assessable production for the crop year of 6,355,413 barrels. This amount plus adequate supplies in the reserve will be sufficient to cover budgeted expenses. 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 Committee meetings, the March 30, 2000, meeting was a public meeting and 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 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 upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 fiscal period began on September 1, 1999, and ends on August 31, 2000, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable cranberries handled during such fiscal period; (2) the Committee needs the additional funds to begin implementation of a volume regulation program, if approved by the Department; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 929

Marketing agreements, Cranberries, 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, 1999, an assessment rate of \$0.06 per barrel is established for cranberries.

Dated: August 3, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–19988 Filed 8–3–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–17–AD; Amendment 39–11842; AD 2000–15–10]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Model 4HFR34C653/L106FA–0

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McCauley Propeller Systems 4HFR34C653/L106FA–0 model propellers that are installed on Jetstream Series 3200 airplanes. This action is also applicable to 4HFR34C653/L106FA–0 model propellers that are installed on Ayres S2R–G5 and S2R–G10 airplanes if the propeller was previously installed on Jetstream Series 3200 airplanes or if installation history of the propeller is unknown. This action requires one-time and repetitive eddy current inspections of the camber side of the blade surface. This amendment is prompted by a report of a crack on the camber side of the blade surface. The crack was found during a dye penetrant inspection as part of a normal overhaul process. The actions specified in this AD are intended to detect cracks that could cause failure of the propeller blade, which can result in loss of control of the airplane.

DATES: Effective August 23, 2000. The incorporation by reference of certain publications listed in the rule is approved by the Director of the **Federal Register** as of August 23, 2000.

Comments for inclusion in the Rules Docket must be received on or before October 10, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel,

Attention: Rules Docket No. 2000–NE–17–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: “9-ane-adcomment@faa.gov”. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from McCauley Propeller Systems, A Textron Company, 3535 McCauley Drive, Vandella, Ohio 45377. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 E. Devon Ave., Des Plaines, IL 60018; telephone 847–294–7132, fax 847–294–7834.

SUPPLEMENTARY INFORMATION: In December, 1999, an FAA approved repair station found a crack in the camber side of a propeller blade during a dye penetrant inspection. The dye penetrant inspection was being done as part of an overhaul. This condition, if not corrected, could result in failure of the propeller blade, which can result in loss of control of the airplane.

Manufacturer's Service Documentation

The FAA has reviewed and approved the technical contents of McCauley Propeller Systems Alert Service Bulletin (ASB) 234, dated May 1, 2000. That ASB describes procedures for eddy current and dye penetrant inspections of the camber side of the propeller blade, and procedures for the evaluation of suspect indications.

Actions Required by This AD

Since an unsafe condition has been identified that is likely to exist or develop on other McCauley Propeller Systems 4HFR34C653/L106FA–0 model propellers of the same type design, this AD is being issued to detect cracks that could cause failure of the propeller blade, which can result in loss of control of the airplane. This AD requires one-time and repetitive eddy current inspections or dye penetrant inspections of the camber side of any propeller blade that is installed on, or has at any time been installed on, Jetstream series 3200 airplanes. The inspection requirements and the qualification requirements for the test technicians are based on the criticality of the potential failure condition. These same actions