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## OFFICE OF THE FEDERAL REGISTER

### 1 CFR Part 51

#### Address Change for Inspection of Materials Incorporated by Reference

**AGENCY:** Office of the Federal Register, NARA.

**ACTION:** Technical amendment.

**SUMMARY:** This document changes the address for public inspection of materials incorporated by reference and filed at the Office of the Federal Register (OFR). The change is necessary because the collection of incorporated materials has accumulated to the point that the OFR cannot accommodate any additional material in its building in Washington, DC. The Office is transferring older material to the National Archives building in College Park, MD, and to the Washington National Records Center in Suitland, MD. A new general availability statement replaces the Washington, DC, address wherever it appears throughout titles 1 through 50 of the Code of Federal Regulations.

**EFFECTIVE DATE:** April 9, 2004. We will accept comments on this technical amendment through June 8, 2004.

**ADDRESSES:** To submit comments or questions, please use any of the following methods:

- E-mail: [Fedreg.legal@nara.gov](mailto:Fedreg.legal@nara.gov). Include the heading "Address for IBR Materials" in the subject line of the message.
- Fax: 202-741-6012.
- Mail: Office of the Federal Register (NF), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.
- Hand Delivery or Courier: Office of the Federal Register, 800 North Capitol Street, Suite 700, Washington, DC 20002.
- Federal eRulemaking Portal: <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Amy Bunk, Attorney-Advisor, Office of the Federal Register, 800 North Capitol Street, Suite 700, Washington, DC 20002. Telephone: 202-741-6030. E-mail: [Fedreg.legal@nara.gov](mailto:Fedreg.legal@nara.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the Freedom of Information Act (FOIA), 5 U.S.C. 552(a), the Director of the Federal Register has the sole responsibility for review and approval of materials incorporated by reference into the **Federal Register** system. In administering this provision of the FOIA, the Office of the Federal Register (OFR) acts as an independent regulatory authority. Currently, all materials approved for incorporation by reference in the **Federal Register** and Code of Federal Regulations (CFR) are maintained at the OFR in Washington, DC. The OFR's address in Washington, DC, appears as an inspection location for all of these materials throughout titles 1 through 50 of the CFR.

The collection of material has grown to the point that the OFR has exceeded its capacity for on-site storage. To rectify this situation, the OFR proposed a permanent retention schedule be established for all materials incorporated by reference in titles 1 through 50 of the Code of Federal Regulations, under 36 CFR part 1228 and the National Archives and Records Administration's (NARA) records management handbook, "Disposition of Federal Records to NARA" ([http://www.archives.gov/records\\_management/publications/disposition\\_of\\_federal\\_records/](http://www.archives.gov/records_management/publications/disposition_of_federal_records/)). A notice of availability of the OFR's proposed record schedule and request for comments was published on May 6, 2003 (68 FR 24020). NARA received no comments regarding OFR's proposed record schedule. Under the newly approved records schedule, the OFR is authorized to transfer materials incorporated by reference to new locations.

The records schedule identifies three categories of records: Aircraft Service Bulletins (SBs) incorporated by reference into Federal Aviation Administration (FAA) Airworthiness Directives at 14 CFR part 39, State Implementation Plans (SIPs) incorporated by reference into Environmental Protection Agency (EPA)

regulations at 40 CFR part 52, and all other technical standards and miscellaneous materials incorporated by reference into various other agencies' regulations throughout the CFR.

FAA Service Bulletins will be held at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC, for 3 years starting from the year in which they were incorporated by reference into the CFR. They will then be transferred to the Washington National Records Center (WNRC), 4205 Suitland Road, Suitland, MD, and held for years 3 through 10. When the records are 10 years old, they will be transferred from WNRC to the National Archives at College Park, 8601 Adelphi Road College Park, MD, for permanent retention.

EPA State Implementation Plans (SIPs) will be held at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC, for approximately 5 years from the year in which they were incorporated by reference. They will then be transferred to the WNRC, 4205 Suitland Road, Suitland, MD, and held for years 5 through 15. When the records are 15 years old, they will be transferred from WNRC to the National Archives at College Park, 8601 Adelphi Road College Park, MD, for permanent retention.

All other materials incorporated by reference into the CFR will be held at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC, for 5 years from the year in which they were incorporated by reference into the CFR. They will then be transferred to the WNRC, 4205 Suitland Road, Suitland, MD, and held for years 5 through 15. When the records are 15 years old, they will be transferred from WNRC to the National Archives at College Park, 8601 Adelphi Road, College Park, MD, for permanent retention.

The following table summarizes the disposition schedule and location of the materials incorporated by reference. The dates and timeframes listed are approximate because the records will be gathered annually and transferred in groups. Persons interested in inspecting incorporated materials should call the **Federal Register** Legal Staff at 202-741-6030 for help in determining the current location of the materials. The location

and contact information is also posted on NARA's Web site.

#### DISPOSITION AND LOCATION OF MATERIALS INCORPORATED BY REFERENCE

| Category of records                                                                | Location of records                                                                         |                                                                            |                                                                             |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
|                                                                                    | Office of the Federal Register,<br>800 North Capitol St., NW., Suite<br>700, Washington, DC | Washington National Records<br>Center, 4205 Suitland Road,<br>Suitland, MD | National Archives at College Park,<br>8601 Adelphi Rd., College Park,<br>MD |
|                                                                                    | Retention period                                                                            |                                                                            |                                                                             |
| Aircraft Service Bulletins for FAA<br>Airworthiness Directives (14<br>CFR 39).     | From Year 0–3 .....                                                                         | From Year 3–10 .....                                                       | From Year 10 Forward (perma-<br>nent storage).                              |
| State Implementation Plans and<br>Amendments submitted to EPA<br>(40 CFR part 52). | From Year 0–5 .....                                                                         | From Year 5–15 .....                                                       | From Year 15 Forward (perma-<br>nent storage).                              |
| All other materials incorporated by<br>reference in the CFR.                       | From Year 0–5 .....                                                                         | From Year 5–15 .....                                                       | From Year 15 Forward (perma-<br>nent storage).                              |

The OFR remains the legal custodian of the incorporated by reference materials stored at WNRC, and therefore controls access to the records. WNRC requires researchers obtain a written request and authorization from the OFR before the records can be used. If you are interested in researching these materials at WNRC, please call the OFR at 202–741–6030 to obtain authorization to review these materials. Please note that WNRC's Reference Services Branch must receive the request and authorization at least one day before the researcher's visit. For more information on viewing materials at WNRC, see [http://www.archives.gov/facilities/md/suitland/public\\_services.html#general](http://www.archives.gov/facilities/md/suitland/public_services.html#general).

When materials are transferred from WNRC to NARA's College Park, MD, facility for permanent storage in the Archives of the United States, NARA, rather than the OFR, becomes the legal custodian of the records. For general information about NARA's College Park facility, see [http://www.archives.gov/facilities/md/archives\\_2.html](http://www.archives.gov/facilities/md/archives_2.html). For information about researching records at the College Park facility, see [http://www.archives.gov/facilities/md/researcher\\_information.html](http://www.archives.gov/facilities/md/researcher_information.html).

Materials incorporated by reference are also available from sources other than NARA. Availability statements for all material approved for incorporation by reference in the CFR cite contact information for the publisher and the inspection location at each agency that incorporated the material. That information remains unchanged throughout the CFR.

#### The Amendment

Since materials incorporated by reference will be located at different NARA facilities based on the type of document and the year in which it was incorporated by reference into the CFR,

the OFR must replace the address of the Office of the Federal Register wherever it is listed as a public inspection location in titles 1 through 50 of the CFR. The language listing the OFR's address as the location for inspection will be replaced by a general availability statement and contact information that reads as follows: "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](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html)."

#### Rulemaking Analyses and Notices

##### Administrative Procedure

The APA permits an agency to waive the normal notice and comment requirements if it finds, for good cause, that doing so would be impracticable, unnecessary, or contrary to the public interest as per 5 U.S.C. 553(b). The OFR finds that there is good cause to waive prior notice and comment as it would be unnecessary and serve no useful public interest to establish a comment period for a nonsubstantive action to change address information for materials at a public inspection room. We also find that there is good cause to make this rule effective immediately upon publication under 5 U.S.C. 553(d)(3), as the collection of incorporated by reference material has accumulated to the point that the OFR cannot accommodate any additional on site storage. In any case, the OFR will take comments and questions at the addresses provided to ensure that our customers understand this change to the availability of incorporated by reference materials.

#### Executive Order 12866 (Regulatory Planning and Review)

The OFR has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. It is anticipated that the economic impact of this rulemaking will be minimal because the technical amendment merely changes the address for public inspection of documents.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the OFR has evaluated the effects of this action on small entities and has determined that this action will not have a significant economic impact on a substantial number of small entities. The change of address will not significantly affect access to incorporated by reference materials. For this reason, the OFR certifies that this action will not have a significant economic impact on a substantial number of small entities.

#### Unfunded Mandates Reform Act of 1995

This interim rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

#### Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the OFR has determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

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](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