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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV00–929–6 FIR]

Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of Provisions in the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule that suspended certain sections in the rules and regulations to shorten the appeals procedure for growers who disagree with their sales history determination made by the Cranberry Marketing Committee (Committee) for the 2000/2001 marketing season. Due to the lateness of the season, and the numerous appeals received, the Committee recommended that review of the subcommittee's determination by the full Committee be suspended to shorten the appeal process during the current season. This time savings allowed the Committee to inform growers more timely how many cranberries handlers could purchase under this season=s volume regulation and facilitated grower harvesting decisions.

EFFECTIVE DATE: January 22, 2001.

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, PO 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. This rule is not intended to have retroactive effect. 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 finalizes an interim final rule that temporarily suspended, through November 15, 2000, provisions in § 929.125 of the rules and regulations (65 FR 42598, July 11, 2000) to shorten the sales history appeal process for the 2000/2001 marketing season. The Committee is responsible for calculating each grower's sales history on an annual basis. The appeals process includes three levels of review, a review by the appeals subcommittee of the Committee, the full Committee, and finally the Secretary of Agriculture. Due to the lateness of the season, and the numerous appeals received from growers, the Committee unanimously recommended that the review by the Committee be suspended for the 2000/2001 season. This allowed growers to take their appeals directly to the Secretary for a final decision. The Committee unanimously recommended this action at its August 28, 2000, meeting.

Section 929.48 of the order and § 929.149 of the rules and regulations describe how the Committee computes a sales history for each grower. There are different computations used depending on the number of years a grower has been producing on such acreage. The Committee has been updating growers' sales histories each season. The Committee accomplishes this by using information submitted by the grower on a production and eligibility report filed with the Committee. The Committee established a review procedure in § 929.125 of the rules and regulations for growers who disagree with the Committee's computation.

Currently, § 929.125 (65 FR 42598; July 11, 2000) provides that a grower may appeal to an appeals subcommittee within 30 days of receipt of the Committee's determination of his/her sales history. If the grower is not satisfied with the subcommittee's decision, the grower may further appeal to the full Committee. Such grower must notify the full Committee of his or her appeal within 15 days after notification of the subcommittee's decision. The Committee has 15 days to review the appeal. The grower may further appeal to the Secretary, within 15 days after notification of the full Committee's findings, if the grower is not satisfied

with the Committee's decision. All decisions by the Secretary are final.

A volume regulation has been implemented for the 2000–2001 cranberry crop to address an oversupply situation currently being experienced by the industry. The Committee determined the best method of volume control to be the producer allotment program which provides for an annual marketable quantity and allotment percentage. Marketable quantity is defined as the number of pounds of cranberries needed to meet total demand and to provide for an adequate carryover into the next season. The allotment percentage equals the marketable quantity divided by the total of all growers' sales histories. The Committee is responsible for calculating each grower's sales history on an annual basis.

The appeals procedure described above could take 60 or more days to complete, and the number of appeals received for the season was large. At the Committee meeting on August 28, 2000, the appeals committee reviewed about 150 grower appeals, and more needed to be reviewed at this level.

Due to the lateness of the season, and the numerous appeals received, the Committee recommended that the review by the full Committee be suspended from the procedures to shorten the process. This was intended to allow growers to take their appeals directly to the Secretary for a final decision if they were not satisfied with the appeals subcommittee's determinations. To date all such appeals have been reviewed by the appeals subcommittee and reviewed and acted upon by the Secretary, if warranted.

The Committee recommended that the full Committee review step be temporarily suspended through November 15, 2000, to expedite the process for the current harvest. The complete procedures will be available to growers next season, if needed.

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 final 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 finalizes an interim final rule that temporarily suspended provisions in § 929.125 of the rules and regulations regarding the appeals procedure for growers who disagree with their sales history determination made by the Cranberry Marketing Committee. The Committee is responsible for calculating each grower's sales history on an annual basis. The appeals process includes a review by the appeals subcommittee, the full Committee, and finally the Secretary. Due to the lateness of the season, and the numerous appeals received, the Committee recommended that the review by the full Committee be suspended from the procedures to shorten the process.

This suspension action allowed growers, who filed appeals, to know their sales histories and annual allotments sooner. Handlers need this information to plan their acquisitions throughout this crop year under volume regulation. In addition, the Committee received over 200 appeals and needed to act on them quickly to render decisions as soon as possible. To date all such appeals have been reviewed by the appeals subcommittee and reviewed and acted upon by the Secretary, if warranted.

The Committee discussed the alternative of delegating the Committee's review to the appeals subcommittee, however, such action is not authorized under the rules and regulations. The Committee also discussed not revising the rules and regulations, however, this would not have allowed growers to know their sales histories and annual allotment as promptly as possible.

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.

Further, 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 August 28, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

An interim final rule concerning this action was published in the **Federal Register** on September 14, 2000. Copies of the rule were mailed by the Committee's staff to all Committee members and handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended November 13, 2000. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: 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 finalizing the interim final rule, without change, as published in the **Federal Register** (65 FR 55436, September 14, 2000) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

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

Accordingly, the interim final rule amending 7 CFR part 929 which was published at 65 FR 55436 on September

14, 2000, is adopted as a final rule without change.

Dated: December 19, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–32715 Filed 12–21–00; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–1093]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The Board is required to adjust annually the asset-size exemption threshold for depository institutions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The present adjustment reflects changes for the twelve-month period ending in November 2000. During this period, the index increased by 3.4 percent; as a result, the threshold is increased to $31 million. Thus, depository institutions with assets of $31 million or less as of December 31, 2000, are exempt from data collection in 2001.

EFFECTIVE DATE: January 1, 2001. This rule applies to all data collection in 2001.

FOR FURTHER INFORMATION CONTACT: Kathleen C. Ryan, Senior Attorney, Division of Consumer and Community Affairs, at (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) only, contact Janice Simms at (202) 872–4984.

SUPPLEMENTARY INFORMATION: The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR part 203) implements HMDA.

Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (codified at 12 U.S.C. 2808(b)) amended HMDA to expand the exemption for small depository institutions. Prior to 1997, HMDA exempted depository institutions with assets totaling $10 million or less, as of the preceding year end. The statutory amendment increased the asset-size exemption threshold by requiring a one time adjustment of the $10 million figure based on the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW) for 1996 exceeded the CPIW for 1975, and provided for annual adjustments thereafter based on the annual percentage increase in the CPIW. The one-time adjustment increased the exemption threshold to $28 million for 1997 data collection.

Section 203.3(a)(1)(ii) of Regulation C provides that the Board will adjust the threshold based on the year-to-year change in the average of the CPIW, not seasonally adjusted, for each twelve-month period ending in November, rounded to the nearest million. Pursuant to this section, the Board raised the threshold to $30 million for 1999 data collection, and kept it at that level for data collection in 2000.

During the period ending November 2000, the CPIW increased by 3.4 percent. As a result, the threshold is increased to $31 million. Thus, depository institutions with assets of $31 million or less as of December 31, 2000, are exempt from data collection in 2001. An institution's exemption from collecting data in 2001 does not affect its responsibility to report the data it was required to collect in 2000.

The Board is amending comment 3(a)–2 of the staff commentary to implement the increase in the exemption threshold. Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary or would be contrary to the public interest. 5 U.S.C. 553(b)(B). Regulation C establishes the formula for determining adjustments to the exemption threshold, if any, and the amendment to the staff commentary merely applies the formula. This amendment is technical and not subject to interpretation. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary and would be contrary to the public interest. Therefore, the amendment is adopted in final form.

List of Subjects in 12 CFR Part 203

Banks, Banking, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. In Supplement I to part 203, under Section 203.3—Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home-purchase loans,* paragraph 2 is revised to read as follows:

Supplement I to Part 203—Staff Commentary

* * * * *

Section 203.3 Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

* * * * *

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2001, the asset-size exemption threshold is $31 million. Depository institutions with assets at or below $31 million are exempt from collecting data for 2001.

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By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 19, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–32749 Filed 12–21–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1078]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System, in consultation with the Secretary of the Treasury and after seeking public comment, has determined by rule that acting as a finder is an activity that is incidental to a financial activity and therefore permissible for a financial holding company. The Board's final rule amends Subpart I of Regulation Y by adding acting as a finder to the list of activities that a financial holding company may conduct using the streamlined post-