

This action is also expected to decrease the confusion likely to occur if the continuance referenda scheduled for the period between December 1, 2006, and February 15, 2007, are held as scheduled. Implementation of the order amendments requires a transition to mail balloting for NAC and PCC nominations in January 2007, which would overlap with the scheduled continuance referenda. Growers could each receive as many as four ballots during the overlapping nominations and referenda periods if they produce both nectarines and peaches. The committees are concerned that the flood of ballots could confuse growers and discourage them from participating fully. Therefore, the committees recommended that the continuance referenda be postponed. After this initial transitional period the biennial committee nominations should take place earlier in the year and are not expected to overlap with scheduled continuance referenda periods.

One alternative to this action would be to conduct the referenda as scheduled. However, the committees believe that growers need additional time to evaluate the effectiveness of the amendments that were adopted before voting on continuation of the marketing programs. Postponing the continuance referenda until a later time is expected to provide a better assessment of industry support for the orders. Further, if the continuance referenda were not postponed the referenda period would overlap with the committee nominations period. Voter confusion would likely occur due to the receipt of multiple ballots during that time. The committees were concerned that the confusion would lead to decreased grower participation in both the referenda and the committee nominations. Therefore, USDA has determined that the provisions requiring that continuance referenda be conducted during the period between December 1, 2006, and February 15, 2007, should be temporarily suspended.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large nectarine or peach 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 AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the committees' meetings were widely publicized throughout the nectarine and peach industry and all interested persons were invited to attend the meetings and participate in committee deliberations. Like all committee meetings, the August 31, 2006, meetings were public meetings and all entities, both large and small, were able to express their views on this issue.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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.

This rule invites comments on the temporary suspension of provisions regarding the continuance referenda under the California nectarine and peach marketing orders. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the committees' recommendations, and other information, it is found that the order provisions suspended by this interim final rule, as hereinafter set forth, do not tend to effectuate the declared policy of the Act for the 2006–07 period.

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) This rule should be implemented as soon as possible since the nectarine and peach marketing order continuance referenda periods are scheduled to commence December 1, 2006; (2) the rule relaxes referenda requirements for the nectarine and peach industries; (3) the committees discussed this issue at public meetings and interested parties had opportunities to provide input at those meetings; and (4) the rule provides a 30-day comment period and any comments received will be considered period to finalization of this rule.

## List of Subjects

### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR Parts 916 and 917 are amended as follows:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

## PART 916—NECTARINES GROWN IN CALIFORNIA

### § 916.64 [Amended]

■ 2. In paragraph (e) of § 916.64 Termination, the sentence “The Secretary shall conduct such referendum within the same period of every fourth fiscal period thereafter.” is temporarily suspended December 1, 2006, through February 15, 2007.

## PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

### § 917.61 [Amended]

■ 3. In paragraph (e) of § 917.61 Termination, the sentence “The Secretary shall conduct such a referendum within the same period of every fourth fiscal period thereafter.” is temporarily suspended December 1, 2006, through February 15, 2007.

Dated: December 21, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6–22236 Filed 12–27–06; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 926

[Docket No. AMS–FV–06–0173; FV06–926–1 IFR]

## Data Collection, Reporting and Recordkeeping Requirements Applicable to Cranberries Not Subject to the Cranberry Marketing Order; Suspension of Provisions Under 7 CFR Part 926

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule suspends Part 926 in the Code of Federal Regulations, which requires persons engaged in the handling or importation of fresh cranberries or cranberry products, but not subject to the reporting requirements of the Federal cranberry marketing order (7 CFR Part 929), to report sales, acquisition, and inventory information to the Cranberry Marketing Committee (Committee), and to maintain adequate records of such activities. The establishment of these requirements is authorized under section 8(d) of the Agricultural Marketing Agreement Act of 1937 (Act). The Committee, which administers marketing order 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, has been delegated by the Department of Agriculture (USDA) to collect such information authorized under Part 926. Based on information provided by the Committee, USDA has determined that the collection of information under Part 926 is of marginal benefit to the industry and should be suspended.

**DATES:** Effective December 29, 2006; comments received by February 26, 2007 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, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov), or Internet: <http://www.regulations.gov>. 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 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, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, Maryland 20737; Telephone: (301) 734-5243, Fax: (301) 734-5275, or E-mail at

[Patricia.Petrella@usda.gov](mailto:Patricia.Petrella@usda.gov) or [Kenneth.Johnson@usda.gov](mailto:Kenneth.Johnson@usda.gov).

Small businesses may request information on complying 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, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the "Act".

USDA 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

This rule suspends indefinitely Part 926 of the Code of Federal Regulations, which contains the reporting and recordkeeping requirements for entities engaged in the handling or importation of fresh cranberries or cranberry products but not subject to the cranberry marketing order (7 CFR Part 929) (order). Under Part 926, such entities are required to provide to USDA or its delegate, certain information regarding the sales, acquisitions, and inventories of fresh cranberries or cranberry products. USDA delegated authority to the Committee to collect such information. The Committee, which is also responsible for administering the order, has used this information to analyze market conditions and make volume control recommendations to USDA. Recently the Committee has determined that this data collection under Part 926 is not needed at this time, and advised USDA of its findings following its meeting on June 6, 2006.

Section 608d(3) of the Act, as amended, authorizes the collection of cranberry and cranberry product inventory information from producer-handlers, second handlers, processors, brokers, and importers that are not regulated by the order. Pursuant to this statutory authority, USDA issued reporting and recordkeeping requirements for these entities under Part 926 on January 12, 2005 (70 FR 1995). Sections 926.16, 926.17, and

926.18 require these entities to file and maintain certain reports and other information that are also required of handlers regulated under the order.

Part 926 was implemented to allow the Committee access to cranberry and cranberry product inventory information from throughout the industry, including segments outside the scope of the order, so that it could make more informed marketing decisions. For example, the Committee makes annual volume control recommendations to USDA that are based upon estimated cranberry production, acquisition, inventory, and sales for the total industry. Adding inventory data collected from entities outside the order to the data reported by handlers under the order was expected to provide a more accurate estimate of the total industry inventory, thus enabling the Committee to make more informed volume control recommendations.

However, after more than a year's experience collecting the data pursuant to Part 926, the Committee has found that most inventories are maintained by handlers regulated under the order, and that the amount of cranberries and cranberry products held by entities outside the order is minimal and does not affect the Committee's marketing decisions. The Committee met on June 6, 2006, to evaluate the effectiveness of the data collection conducted under Part 926. Taking into account the marginal benefits of this data collection, the committee advised USDA that the reporting and recordkeeping provisions under Part 926 should be suspended.

This action suspends the reporting and recordkeeping requirements of Part 926 indefinitely. Should changes occur in the cranberry industry that would warrant reimplementation of these requirements USDA may take appropriate action to reinstate these provisions under Part 926.

#### Initial Regulatory Flexibility Analysis

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. Small agricultural service firms are defined by the Small Business Administration (SBA) [13 CFR 121.201] as those having annual receipts less than \$6,500,000. Small agricultural producers are defined

as those with annual receipts of less than \$750,000. The Committee estimates that there are approximately 56 handlers, producer-handlers, processors, brokers, and importers subject to the data collection requirements under Part 926. The Committee further estimates that most of the entities required to file reports under Part 926 would be considered small under the SBA criteria.

This rule suspends indefinitely the provisions of 7 CFR Part 926, which require persons engaged in the handling of cranberries or cranberry products (including producer-handlers, second-handlers, processors, brokers, and importers) but not subject to the order to maintain adequate records and report sales, acquisitions, and inventory information to the Committee. Part 926 was established because the Committee needed inventory information from non-regulated entities as well as those subject to the order to better formulate its marketing decisions and recommendations. It is being suspended because the Committee has determined that, considering the size of the inventories held outside the scope of the order, collecting that data from the non-regulated entities is of marginal benefit to the industry.

This action suspends the reporting and recordkeeping requirements for these cranberry handlers and importers. It is also expected to reduce the Committee's costs associated with the collection and maintenance of that information.

Alternatives to this action included continuing to collect information as currently provided in Part 926, raising the inventory threshold that triggers the need for a non-regulated entity to report its inventory so that only those entities holding the largest inventories would be required to file reports, or requesting that non-regulated entities provide inventory information voluntarily. However, the Committee advised USDA that most cranberries and cranberry products are currently held in the inventories of the regulated handlers until needed by processors, which greatly reduces the likelihood that large unreported inventories exist. Therefore, the collection of inventory information from entities under Part 926 no longer benefits the industry.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements related to this rule were previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0222, Data Collection Requirements Applicable to Cranberries Not Subject to the Cranberry

Marketing Order (7 CFR Part 926). This information collection package expires August 31, 2007. We are submitting this information collection for renewal and requesting OMB approval of a one-hour burden placeholder for future reimplementation should changes occur in the cranberry industry that require reinstatement of these reporting and recordkeeping requirements under Part 926.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA 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: <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.

This rule invites comments on suspending the reporting and recordkeeping requirements under 7 CFR Part 926. All comments received will be considered prior to finalization of this interim final rule.

After consideration of all relevant material presented, it is found that Part 926, suspended in this interim final rule, as hereinafter set forth, does not 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 in effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule is a relaxation in the reporting and recordkeeping requirements under 7 CFR Part 926 and should be in place as soon as possible for the upcoming 2006-07 season and (2) 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 926

Cranberries and cranberry products, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR Part 926 is amended as follows:

#### PART 926—DATA COLLECTION, REPORTING AND RECORDKEEPING REQUIREMENTS APPLICABLE TO CRANBERRIES NOT SUBJECT TO THE CRANBERRY MARKETING ORDER

■ 1. The authority citation for 7 CFR Part 926 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

#### §§ 926.1 through 926.21 [Suspended]

■ 2. In part 926, §§ 926.1 through 926.21 are suspended indefinitely.

Dated: December 21, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

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#### FEDERAL HOUSING FINANCE BOARD

#### 12 CFR Parts 900, 917, 925, and 930

[No. 2006-23]

RIN 3069-AB30

#### Limitation on Issuance of Excess Stock

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Board (Finance Board) is adopting a final rule limiting the ability of a Federal Home Loan Bank (Bank) to create member excess stock under certain circumstances. Under the rule, any Bank with excess stock greater than 1 percent of its total assets will be barred from further increasing member excess stock by paying dividends in the form of shares of stock (stock dividends) or otherwise issuing new excess stock. The final rule is based on a proposed rule that sought to impose a limit on excess stock and establish a minimum retained earnings requirement. The final rule deals only with the excess stock provisions of the proposal. The Finance Board intends to address retained earnings in a later rulemaking.

**EFFECTIVE DATES:** This rule will become effective on January 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Daniel E. Coates, Associate Director, Office of Supervision, [coatesd@fhfb.gov](mailto:coatesd@fhfb.gov) or 202-408-2959; or Thomas E. Joseph, Senior Attorney-Advisor, Office of General Counsel, [josepht@fhfb.gov](mailto:josepht@fhfb.gov) or 202-408-2512. You can send regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington DC 20006.

**SUPPLEMENTARY INFORMATION:**