

cranberry marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim 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 handler reporting cycle for the current fiscal period has already begun; (2) the Committee would like this action in place prior to the start of the third reporting period which begins May 1; (3) the Committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, 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. Amend § 929.105 by revising paragraph (b) to read as follows:

#### **§ 929.105 Reporting.**

\* \* \* \* \*

(b) Certified reports shall be filed with the committee, on a form provided by the committee, by each handler not later than January 20, May 20, and July 20 of each fiscal period and by September 20 of the succeeding fiscal period showing:

(1) The total quantity of cranberries the handler acquired and the total quantity of cranberries and *Vaccinium oxycoccus* cranberries the handler handled from the beginning of the reporting period indicated through

December 31, April 30, June 30, and August 31, respectively, and

(2) The respective quantities of cranberries and *Vaccinium oxycoccus* cranberries and cranberry products and *Vaccinium oxycoccus* cranberry products held by the handler on January 1, May 1, June 30, and August 31 of each fiscal period.

Dated: August 22, 2012.

**David R. Shipman,**

*Administrator, Agricultural Marketing Service.*

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## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 1260**

[Doc. No. AMS–LS–11–0086]

#### **Beef Promotion and Research; Amendment to the Order**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule expands the contracting authority of the Beef Promotion and Research Order (Order). The Beef Research and Information Act (Act) requires that the Beef Promotion Operating Committee (BPOC) enter into contracts with established national non-profit industry-governed organizations including the Federation of State Beef Councils to implement programs of promotion, research, consumer information, and industry information. The Act does not define “national non-profit industry governed organization,” however, the Order states that these organizations must be governed by a board of directors representing the cattle or beef industry on a national basis and that they were active and ongoing prior to enactment of the Act. This final rule changes the date requirement in the Order so that organizations otherwise qualified could be eligible to contract with the BPOC for the implementation and conduct of Beef Checkoff programs if they have been active and ongoing for at least two years.

**DATES:** Effective August 31, 2012.

**FOR FURTHER INFORMATION CONTACT:** Craig Shackelford, Agricultural Marketing Specialist, Marketing Programs Division, on 202/720–1115, fax 202/720–1125, or by email at [craig.shackelford@ams.usda.gov](mailto:craig.shackelford@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

#### **Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect.

Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

#### **Regulatory Flexibility Act and Paperwork Reduction Act**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic effect of this action on small entities and has determined that this final rule will not have a significant economic impact on a substantial number of small entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

In the February 2011 publication of “Farms, Land in Farms, and Livestock Operations,” the U.S. Department of Agriculture’s (USDA) National Agricultural Statistics Service (NASS) estimates that in 2010 the number of operations in the United States with cattle totaled approximately 935,000. The majority of these operations that are subject to the Order may be classified as small entities.

The final rule imposes no new burden on the industry. It merely expands the contracting authority as established under section 1260.168(b) within the Order to permit a greater number of organizations to perform work on behalf of the BPOC.

#### **Background and Final Action**

The Order is authorized by the Act of 1985 [7 U.S.C. 2901–2918]. The Act was passed as part of the 1985 Farm Bill [Pub. L. 99–198]. The program became effective on July 18, 1986, when the Order was issued [51 FR 26132]. Assessments began on October 1, 1986.

Section 5(6) of the Act provides that the BPOC, to insure coordination and efficient use of funds, shall enter into contracts or agreements for implementing any activities, which it

has approved to be carried out, with established national nonprofit industry-governed organizations including the Federation of State Beef Councils. This language has the effect of requiring the BPOC to contract with organizations, which qualify as established national non-profit industry-governed organizations. The Act does not define "national non-profit industry governed organization."

Previously, section 1260.113 of the Order defined "established national non-profit industry-governed organizations" as organizations which: (a) Are non-profit organizations pursuant to sections 501(c)(3), (5) or (6) of the Internal Revenue Code (26 U.S.C. 501(c)(3), (5), and (6)); (b) are governed by a board of directors representing the cattle or beef industry on a national basis; and (c) were active and ongoing before enactment of the Act. This final rule amends section 1260.113 of the Order by replacing the existing language under paragraph (c), "were active and ongoing before the enactment of the Act" with "have been active and ongoing for at least two years."

In 2006, the National Cattlemen's Beef Association (NCBA) and the American Farm Bureau Federation (AFBF) initiated the Industry-Wide Beef Checkoff Taskforce (Taskforce) to review, study, and recommend enhancements to the Beef Checkoff program for the purpose of strengthening the Beef Checkoff Program for the common good of the beef industry. The Taskforce included producer and industry representatives and representatives from national organizations, while USDA took on an advisory role during meetings. The Taskforce issued a report in September 2006, which included a recommendation to eliminate section 1260.113(c) in order to make the Beef Checkoff more inclusive. USDA believes that permitting a greater number of organizations to contract with the BPOC could bring new perspectives to the contracting process.

In February 2008 at the Cattle Industry Annual Convention, leaders of the Cattlemen's Beef Board (Board) asked AMS officials if the Board could conduct a program review. The industry officials believed that it would be in the best interest of the Beef Checkoff Program to conduct a review of the operations to determine if there are any changes that need to or could be made in program operations, the Act, or Order that would facilitate a more effective Beef Checkoff Program. Included in the Board's subsequent January 2009 recommendations to AMS was a recommendation for a statutory

amendment intended to result in an expansion of the contracting authority to organizations created after the 1986 enactment of the Act.

Finally, a meeting was held in Minneapolis, Minnesota on September 27, 2011, attended by many industry stakeholders and co-hosted by the U.S. Cattlemen's Association and the National Farmers Union as requested by the Secretary. The goal of the meeting was to bring more broad-based producer support to the Beef Checkoff program through a discussion of issues regarding Beef Checkoff administration and to provide the Secretary with recommendations that would enhance support for the Beef Checkoff. Many major Beef Checkoff industry stakeholders attended, including the American National Cattlewomen, American Veal Association, Livestock Marketing Association, NCBA, National Livestock Producers Association, and Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF). Representatives from the AMS also attended the meeting, as did the Chief Executive Officer and Producer Chairman of the Board.

As a result of that meeting, the Secretary received a joint letter signed by most of the organizations in attendance. The letter requested that USDA amend Beef Checkoff regulations to expand the contracting authority as authorized under the Act and Order by permitting organizations that are active and ongoing for at least two years to contract with the BPOC.

### Conclusion

A greater number of beef industry organizations exist now than did at the time the Order was issued. The Beef Checkoff Program could benefit from the perspectives and skills of some of these organizations that are ineligible solely because they were formed after the enactment of the Act. For several years, the beef industry has been recommending expanding the eligibility of organizations to contract with the BPOC in order to enhance the Beef Checkoff Program. Amending the Order will allow the BPOC to contract with organizations possessing the requisite experience, skills and information related to the marketing of beef and beef products, as is intended under the Act.

### Comments

On March 2, 2012, USDA published in the **Federal Register** (77 FR 12752) for public comment a proposed rule providing for the expansion of the contracting authority as authorized under the Order by permitting organizations that are active and

ongoing for at least two years to contract with the BPOC. Comments were due to USDA by May 1, 2012.

USDA received 20 timely comments associated with the proposed rule for expansion of the contracting authority. Ten comments were submitted by individual cattle ranchers or members of the general public. Ten comments were received from cattle industry organizations. No untimely comments were received and no new information was obtained that was not already provided in the timely comments that are considered below.

Twelve commenters directly expressed support of the expansion of the contracting authority and for the provision requiring that otherwise qualified organizations must have been active and ongoing for at least 2 years.

One commenter provided background information on how the Order came to have its current contracting provisions and compared this to the current proposal. This commenter fully supported the expansion of the contracting authority and the requirement that qualifying contracting organizations be active and ongoing for at least 2 years.

Several commenters offered ideas and suggestions that were pertinent to the Program but were outside the scope of this final rule. One commenter suggested that farmers and ranchers who pay into the Beef Checkoff should be given the opportunity to vote on Beef Checkoff promotion programs every five years. Six commenters suggested that AMS should reinstate the eligibility requirement contained in its proposed rule dated March 14, 1986 (51 FR 8984) that such organizations must be governed by a board of directors composed of a majority of producers. Eight commenters suggested that AMS should add a new provision to the Order that would restrict any contracting organization from receiving more than a specified percentage of the Beef Checkoff annual program funding. Five commenters suggested that the Beef Checkoff should promote U.S. produced beef. One commenter suggested that AMS should reopen the comment period and propose a plan to make improvements to the administration and operation of the Program. These comments were all beyond the scope of this rulemaking and therefore no changes were incorporated into this final rule based on these comments.

One commenter raised a number of points regarding AMS and the beef industry as a whole that are not pertinent to the proposal and therefore are not addressed.

**List of Subjects in 7 CFR Part 1260**

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

**PART 1260—BEEF PROMOTION AND RESEARCH**

■ 1. The authority citation for 7 CFR part 1260 continues to read as follows:

**Authority:** 7 U.S.C. 2901–2911 and 7 U.S.C. 7401.

■ 2. In § 1260.113, paragraph (c) is revised to read as follows:

**§ 1260.113 Established national non-profit industry-governed organizations.**

\* \* \* \* \*

(c) Have been active and ongoing for at least two years.

Dated: August 22, 2012.

**David R. Shipman,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2012–21374 Filed 8–29–12; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket No. USCG–2012–0679]

**Drawbridge Operation Regulation; Sacramento River, Sacramento, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating regulation that governs the Tower Drawbridge across Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the A.L.S. 5K walk and run event. This deviation allows the bridge to remain in the closed-to-navigation position during the event.

**DATES:** This deviation is effective from 11 a.m. to 2 p.m., on October 6, 2012.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of the docket USCG–2012–0679 and are available online by going to <http://www.regulations.gov>, inserting USCG–2012–0679 in the “Keyword” box and then clicking

“Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given, as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 11 a.m. to 2 p.m. on October 6, 2012 to allow the community to participate in the A.L.S. 5K walk and run event. This temporary deviation has been coordinated with waterway users. There are no scheduled river boat cruises or anticipated levee maintenance during this deviation period. No objections to the proposed temporary deviation were raised. Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time. In the event of an emergency the drawspan can be opened without delay.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 21, 2012.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2012–21383 Filed 8–29–12; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[USCG–2012–0357]

RIN 1625–AA09

**Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard is modifying the operating schedule that governs the Berkley (I–264) Bridge, at mile 0.4, across the Eastern Branch of the Elizabeth River, Norfolk, VA. The current temporary regulation for the Berkley Bridge is scheduled to end on October 5, 2012. This regulation will make the provisions of the temporary regulation permanent. This change to the regulation is necessary to alleviate heavy vehicular traffic delays throughout the day and secondary congestion during the afternoon rush hour, while still providing for the reasonable needs of navigation.

**DATES:** This interim rule is effective at 5 a.m. on October 6, 2012. Comments and related material must reach the Coast Guard on or before October 1, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0357 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S.

Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.