



CAPE COD CRANBERRY GROWERS' ASSOCIATION

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Hearing Clerk
Office of Administrative Law Judges
Room 1081-S USDA Stop 9203
1400 Independence Ave, SW
Washington, DC 20250

RE: 7 CFR Part 929, Docket Nos. AO-341-A6; FV02-929-1

To whom it may concern:

I am writing on behalf of the Cape Cod Cranberry Growers' Association (CCCGA) to comment on the proposed rules published in the April 28, 2004 Federal Register 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; Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendment of Marketing Agreement and Order No. 929

The CCCGA represents more than 330 cranberry growers in Southeastern Massachusetts. These growers produce an average of 25 percent of the US cranberry crop. The \$45 million dollar farm gate value of the crop makes the cranberry industry one of the largest production agriculture crops in Massachusetts.

Material Issue 1 Administrative Body: We oppose giving the Committee the ability to reestablish districts. Currently the ability to reestablish districts is a public process involving hearings and federal register notices unbiased to any geographic location. Giving the committee the ability to reestablish districts will polarize the committee and divide the industry along geographic lines. All states that are subject to a volume regulation should have representation, giving the Committee the ability to reestablish districts will initiate an effort by Wisconsin to remove representation from New Jersey and dilute the representation from Massachusetts. This fact is stated in their public comments offered on this amendment over the past two years. If this amendment is approved, states that continue to increase production thus sending the industry into surplus conditions will have the power to control the Marketing Committee ultimately having a negative impact on the smaller states. USDA states that there is a need to make quick changes to the committee, but no reasons are explained why they need this power. It is also important to note that if this provision is approved, the USDA will be providing voting power to the major coop in the industry by the fact that the Coop has the majority of members on the Committee the ability to realign independent members between growing regions. **It is for these reasons we feel this provision must be eliminated.**

Material Issue 2 Development of the Marketing Policy: CCCGA supports deleting the decision-making dates from this section. The date currently in the order by which a decision for a producer allotment must be made is problematic (too late in the season for farmers to make decisions on growing practices, if there is a regulation).

Material Issue 4 Catastrophic Events that Impact Growers' Sales: We support the need for flexibility by the committee when determining when to adjust a growers base quantity, however the wording of catastrophic (a complete failure) will be too stringent of a test to meet in order to qualify for an adjustment. In 2003 Massachusetts experienced pesticide resistance with a severe insect pest called cranberry weevil, which caused some growers to experience crop loss in excess of 50 percent. In our view this is significant enough that a grower would qualify to have their base quantity adjusted, however in the view of others may not qualify as catastrophic. USDA needs to define catastrophic and provide the committee with guidance on the type of events it would consider to have a base quantity adjusted.

Material Issue 17 -- Expansion of Production Area: USDA has rejected the proposal to expand the production area to include Maine, Delaware, and the entire State of New York. CCCGA does not support this exemption.

In order for a marketing order to be successful data must be collected from all states producing cranberries. The action by USDA to exempt the states of Maine, Delaware and New York is hypocritical given USDA's recent action to allow the Committee to collect data from all states having cranberry imports. One must also ask why USDA chooses not to exempt the states of Minnesota and Rhode Island, since they too meet the qualifications stated by USDA for Maine, Delaware and New York.

If USDA were to extrapolate their rationale for exempting Maine, Delaware and New York, then the state of Massachusetts should be exempt from the marketing order. USDA's reasoning for exempting these regions was that the growers are small and that they could argue their production is insignificant and therefore they should not be subject to the order. Over 80 percent of Massachusetts growers farm less than 20 acres and would qualify for USDA's definition of a "small farm". The department further used, as an example for their rationale to exempt Maine was that their fruit was of high quality and had unique marketing capabilities. This too would qualify Massachusetts from being exempt from the marketing order. Massachusetts has the distinction of producing some of the highest quality fresh fruit in the country including having the highest anthocyanin content of any growing region.

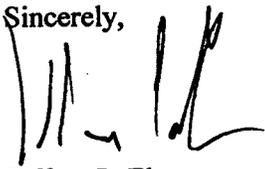
USDA also stated that Maine's production is relatively small due to its yields of 60 barrels per acre. Massachusetts' yields have fallen and have maintained a level of roughly 100 barrels per acre. This production level is not contributing to the overall surplus of cranberries in the country and thus should also be exempt from the marketing order.

If USDA does not include all production regions in the marketing order, Massachusetts will be forced to seek the same exemption as Maine, Delaware and New York to be removed from the Cranberry Marketing Order.

Conclusion

CCCGA appreciates the opportunity to comment on the proposed regulations and stands ready to assist USDA in providing additional insight if needed as the process of improving the Cranberry Marketing Order continues.

Sincerely,



Jeffrey LaFleur
Executive Director

CC: Senator Kennedy
Senator Kerry
Congressman Frank
Congressman McGovern
Congressman Delahunt
Massachusetts CMC Members