



Wisconsin
State
Cranberry
Growers
Association

FOUNDED 1887

JSDA
OALJ/HCO

2004 MAY 28 A 10:25

RECEIVED

May 24, 2004

Hearing Clerk
USDA
Room 1081-S
Washington, DC 20250-9200

Re: 7 CFR Part 929 (Docket nos. AO-341-A6; FV 02-929-1)

To whom it may concern:

These comments are presented on behalf of the Wisconsin State Cranberry Growers Association (WSCGA) with respect to the proposed rule put forth in Volume 69, No. 82 of the Federal Register dated April 28, 2004, pages 23330 through 23367. The proposed rules would amend the marketing agreement and order for 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.

The WSCGA represents more than 125 cranberry farmers in Wisconsin. Cranberries are the state's largest fruit crop generating over \$108 million in farm gate receipts. UW Extension estimates that the annual cranberry crop in Wisconsin provides over 5,000 jobs and \$330 million in income for state residents. Wisconsin produces more than 55% of the nation's crop. As the major producing state in the country Wisconsin has a direct concern about the amendments to the order.

Exceptions

Material Issue 17 – Expansion of Production Area

We would like to file an exception to the USDA decision not to revise section 929.4 to expand the production area to include the states of Maine, Delaware and New York. WSCGA strongly objects to the decision by the department that the production area not be expanded to include these states.

In order for the CMO to be successful in collecting data and controlling production all producers need to be included as well as all production areas. Simply put, all growers benefit from the CMO. The department makes this very point in arriving at their decision.

"The record indicates that domestic growers, including those in Maine benefited from the volume controls under the order. Grower returns in Maine were estimated at \$12 in 2000 and \$23 in 2001. A grower testified that the increase in grower returns was directly related to the volume regulation under the order in 2001" (Page 23351, Federal Register/Volume 69, No. 82/ Wednesday April 28, 2004).

If Maine growers benefit from the CMO then they should share in the costs associated with those benefits. Whether they provide a significant amount of production is not relevant.

Using the department's reasoning, small growers in regulated areas should be able to argue that their production is insignificant and therefore they should not be subject to the order. States such as Michigan with 7 growers and less than 200 acres can then argue that they should not be part of the order. Minnesota and Rhode Island with one grower can argue likewise.

All cranberries produced in the US are connected and compete for markets. The department makes this point when they state that *"20% of Maine production was used as fresh market, primarily in Maine and New Hampshire"* (Page 23351, Federal Register/Volume 69, No. 82/ Wednesday April 28, 2004). These markets would be served by fruit from regulated growing regions such as Wisconsin and Massachusetts. Further, in previous actions by the CMC in implementing the 2000 and 2001 volume restrictions fresh fruit sales were exempt so Maine growers in this market would not be impacted.

In addition the market for ingredients is growing and competitive. Handlers in New York, New Jersey and Massachusetts as well as Wisconsin can and do compete in the ingredients market in the Northeast. Maine grower prices are directly linked to actions by the committee and in order for there to be equity in the application of the marketing order all production areas need to be included.

The department makes the argument that the Maine industry is relatively young, less than 10 years and that in many cases they have been in operation less than 3 years and yields are less than 60 barrels per acre. The department then argues that because these types of low yields can be expected in the future even if Maine were to reach its potential of 2,000 acres it would be an insignificant producer. This analysis is flawed.

New plantings of cranberries take 2-3 years before producing their first crop and 5-7 years before they come into full production. Yields of 60 barrels per acre are consistent with plantings of 3 years or less. Newly planted beds with better varieties should consistently yield 175 to 225 barrels per acre or more with proper management. Taking the low point on this range times the potential acreage of 2,000 acres would yield 350,000 barrels. This nearly doubles the production from Washington in 2002 and would represent about 6% of the annual US crop. We believe that this is significant.

We find the argument that "Maine cranberries are superior" to fruit from other states to be insulting, without merit and irrelevant to the application of the marketing order. All production areas and all growers can argue that their fruit is superior to others based upon any set of criteria. This however has nothing to do with the inclusion of the production in the marketing order.

The "Maine mystique" marketing efforts are no different than state programs to promote their products and are unaffected by generic promotion efforts of the CMC. Wisconsin has for years had a "Something Special From Wisconsin" promotion program, Michigan a state grown promotion program as do other Departments of Agriculture. These programs can and do work in cooperation with the CMC Domestic and International promotion programs.

Based upon these arguments we believe that the Department has erred in its conclusion to not include the proposed expansion of the production area in the final amendments and we formally request that the Secretary reverse this decision.

WSCGA has a responsibility to represent the best interests of its members. A decision to not include all production areas creates an inequity and an unfair market advantage between growers in regulated areas and those excluded. Given that we will do whatever is in our power to represent and protect our members.

Should USDA decide to not include the additional growing areas of Maine, Delaware and all of New York State, WSCGA will reluctantly be put in a position to examine filing a petition to remove Wisconsin from the marketing order.

With Respect to the other material issues we would offer the following comments:

(1) Administrative Body

We support the provisions to allow the committee to re-establish districts within the production area and reapportion grower membership among the districts. We believe that the current allocation of seats is inequitable and would like to formally request that the committee be directed to immediately reallocate membership based upon current production. Wisconsin Independent growers are currently underrepresented and New Jersey Independent growers overrepresented by the current and proposed committee make up. Wisconsin has approximately 140 Independent growers who produce more than 1 million barrels of fruit. New Jersey Independent growers number less than 10 and account for less than 50,000 barrels of fruit yet they have representation equal to half of what Wisconsin Independents have under this proposal. We requested these changes in our original comments on the rules when they were put out for comment in 2002.

(4) Catastrophic Events

We support the flexibility given to the committee to adjust growers' sales histories for catastrophic events. Localized flooding in 2002 due to a heavy storm in one particular

area caused significant crop loss for a few growers in Wisconsin. The amendment would allow the committee to adjust the sales history to take this into account.

(11) Exemptions from Regulations

We support the proposals on the exemptions. We would like to correct some of the statements on current production practices.

The statement on page 23342 is in factually incorrect in its description that fresh cranberries are dry harvested.

In some growing areas in the East fresh fruit is dry harvested. However in Wisconsin fresh fruit is wet picked. It does add to the cost of production and fresh fruit is more labor intensive and expensive to grow. The department should be aware of the difference between growing regions.

In closing, we thank the department for considering our views. We would like to again state our strong opposition to the decision to not include Maine, New York and Delaware and would ask the Secretary to include the amendment as originally proposed by the Cranberry Marketing Committee and the department in April of 2002.

Sincerely,



Tom Lochner
Executive Director

Cc: Wisconsin CMC Members
Dave Farrimond
Sen. Herb Kohl
Sen. Russ Feingold
Rep. Dave Obey
Rep. Mark Green
Rep. Ron Kind
Rep. Tom Petri