

(b) The marketable quantity shall be apportioned among growers by applying the allotment percentage to each grower's sales history, established pursuant to §929.48. Such allotment percentage shall be established by the Secretary and shall equal the marketable quantity divided by the total of all growers' sales histories including the estimated total sales history for new growers. Except as provided in paragraph (g) of this section, no handler shall purchase or handle on behalf of any grower cranberries not within such grower's annual allotment.

(c) In any crop year in which the production of cranberries is estimated by the committee to be equal to or less than its recommended marketable quantity, the committee may recommend that the Secretary increase or suspend the allotment percentage applicable to that year. In the event it is found that market demand is greater than the marketable quantity previously set, the committee may recommend that the Secretary increase such quantity.

(d) *Issuance of annual allotments.* The committee shall require all growers to qualify for such allotment by filing with the committee a form wherein growers include the following information:

(1) The amount of acreage which will be harvested;

(2) A copy of any lease agreement covering cranberry acreage;

(3) The name of the handler(s) to whom their annual allotment will be delivered;

(4) Such other information as may be necessary for the implementation and operation of this section.

(e) On or before such date as determined by the committee, with the approval of the Secretary, the committee shall issue to each grower an annual allotment determined by applying the allotment percentage established pursuant to paragraph (b) of this section to the grower's sales history.

(f) On or before such date as determined by the committee, with the approval of the Secretary, in which an allotment percentage is established by the Secretary, the committee shall notify each handler of the annual allotment that can be handled for each

grower whose total crop will be delivered to that handler. In cases where a grower delivers a crop to more than one handler, the grower must specify how the annual allotment will be apportioned among the handlers. If a grower does not specify how their annual allotment is to be apportioned among the handlers, the Committee will apportion such annual allotment equally among those handlers they are delivering their crop to.

(g) Growers who do not produce cranberries equal to their computed annual allotment shall transfer their unused allotment to such growers' handlers unless it is transferred to another grower in accordance with §929.50(b) or if it is not assigned in accordance with paragraph (i) of this section. The handler shall equitably allocate the unused annual allotment to growers with excess cranberries who deliver to such handler. Unused annual allotment remaining after all such transfers have occurred shall be reported and transferred to the committee by such date as established by the committee with the approval of the Secretary.

(h) Handlers who receive cranberries more than the sum of their growers' annual allotments have "excess cranberries," pursuant to §929.59, and shall so notify the committee. Handlers who have remaining unused allotment pursuant to paragraph (g) of this section are "deficient" and shall so notify the committee. The committee shall allocate unused allotment to all handlers having excess cranberries, proportional to each handler's total allotment.

(i) Growers who decide not to grow a crop, during any crop year in which a volume regulation is in effect, may choose not to assign their allotment to a handler.

(j) The committee may establish, with the approval of the Secretary, rules and regulations necessary for the implementation and operation of this section.

[70 FR 7641, Feb. 15, 2005]

§929.50 Transfers of Sales Histories and Annual Allotments.

(a) *Leases and sales of cranberry acreage—(1) Total or partial lease of cranberry acreage.* When total or partial lease of cranberry acreage occurs, sales

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history attributable to the acreage being leased shall remain with the lessor.

(2) *Total sale of cranberry acreage.* When there is a sale of a grower's total cranberry producing acreage, the committee shall transfer all owned acreage and all associated sales history to such acreage to the buyer. The seller and buyer shall file a sales transfer form providing the committee with such information as may be requested so that the buyer will have immediate access to the sales history computation process.

(3) *Partial sale of cranberry acreage.* When less than the total cranberry producing acreage is sold, sales history associated with that portion of the acreage being sold shall be transferred with the acreage. The seller shall provide the committee with a sales transfer form containing, but not limited to the distribution of acreage and the percentage of sales history, as defined in § 929.48(a)(1), attributable to the acreage being sold.

(4) No sale of cranberry acreage shall be recognized unless the committee is notified in writing.

(b) *Allotment transfers.* During a year of volume regulation, a grower may transfer all or part of his/her allotment to another grower. If a lease is in effect the lessee shall receive allotment from lessor attributable to the acreage leased. *Provided,* That the transferred allotment shall remain assigned to the same handler and that the transfer shall take place prior to a date to be recommended by the Committee and approved by the Secretary. Transfers of allotment between growers having different handlers may occur with the consent of both handlers.

(c) The committee may establish, with the approval of the Secretary, rules and regulations, as needed, for the implementation and operation of this section.

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§ 929.51 Recommendations for regulation.

(a) Except as otherwise provided in paragraph (b) of this section, if the committee deems it advisable to regulate the handling of cranberries in the manner provided in § 929.52, it shall so

recommend to the Secretary by the following appropriate dates:

(1) An allotment percentage regulation must be recommended by no later than March 1;

(2) A handler withholding program must be recommended by not later than August 31. Such recommendation shall include the free and restricted percentages for the crop year;

(3) If both programs are recommended in the same year, the Committee shall submit with its recommendation an economic analysis to the USDA prior to March 1 of the year in which the programs are recommended.

(b) An exception to the requirement in paragraph (a)(1) of this section may be made in a crop year in which, due to unforeseen circumstances, a producer allotment regulation is deemed necessary subsequent to the March 1 deadline.

(c) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply of and demand for cranberries during the period when it is proposed that such regulation should be imposed. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is based and any other information the Secretary may request.

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§ 929.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of cranberries whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulation will tend to effectuate the declared policy of the Act. Such regulation shall limit the total quantity of cranberries which may be handled during any fiscal period by fixing the free and restricted percentages, applied to cranberries acquired by handlers in accordance with § 929.54, and/or by establishing an allotment percentage in accordance with § 929.49.