

Agricultural Marketing Service, USDA

§ 929.51

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 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.

[70 FR 7642, Feb. 15, 2005]

§ 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

§ 929.52

7 CFR Ch. IX (1–1–13 Edition)

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.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give notice thereof to handlers.

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§ 929.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 929.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation: *Provided*, That no such modification shall increase the restricted percentage previously established for the then current fiscal year. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation.

§ 929.54 Withholding.

(a) Whenever the Secretary has fixed the free and restricted percentages for any fiscal period, as provided for in

§ 929.52(a), each handler shall withhold from handling a portion of the cranberries acquired during such period. The withheld portion shall be equal to the restricted percentage multiplied by the volume of marketable cranberries acquired. Such withholding requirements shall not apply to any lot of cranberries for which such withholding requirement previously has been met by another handler in accordance with § 929.55.

(b) The committee, with the approval of the Secretary, shall prescribe the manner in which, and date or dates during the fiscal period by which, handlers shall have complied with the withholding requirements specified in paragraph (a) of this section.

(c) Withheld cranberries may meet such standards of grade, size, quality, or condition as the committee, with the approval of the Secretary, may prescribe. The Federal or Federal-State Inspection Service may inspect all such cranberries. A certificate of such inspection shall be issued which shall include the name and address of the handler, the number and type of containers in the lot, the location where the lot is stored, identification marks (including lot stamp, if used), and the quantity of cranberries in such lot that meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit to the committee a copy of the certificate of inspection issued with respect to such cranberries.

(d) Any handler who withholds from handling a quantity of cranberries in excess of that required pursuant to paragraph (a) of this section shall have such excess quantity credited toward the next fiscal year's withholding obligation, if any—provided that such credit shall be applicable only if the restricted percentage established pursuant to § 929.52 was modified pursuant to § 929.53; to the extent such excess was disposed of prior to such modification; and after such handler furnishes the committee with such information as it prescribes regarding such withholding and disposition.

(e) The Committee, with the approval of the Secretary, may establish rules