

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

(a) Except as otherwise directed by the Secretary, as near as practicable to the beginning of the marketing season of each fiscal period with respect to which the marketing policy proposes regulation pursuant to § 929.52(a), the committee shall determine the amount per barrel each handler shall deposit with the committee for it to release to him, in accordance with paragraph (b) of this section, all or part of the cranberries he is withholding; and the committee shall give notice of such amount of deposit to handlers. Such notice shall state the period during which such amount of deposit shall be in effect. Whenever the committee determines that, by reason of changed conditions or otherwise, a different amount should thereafter be deposited for the release of withheld cranberries, it shall give notice to handlers of the new amount and the effective period thereof. Each determination as to the amount of deposit shall be on the basis of the committee's evaluation of the following factors:

- (1) The prices at which growers are selling cranberries to handlers,
- (2) The prices at which handlers are selling fresh market cranberries to dealers,
- (3) The prices at which cranberries are being sold for processing into products, and
- (4) The prices the committee has paid to purchase cranberries to replace released cranberries in accordance with this section.

(b) Any handler may make a written request to the committee for the release of all or part of the cranberries he is withholding from handling pursuant to § 929.54(a). Each such request shall state, in addition to all other information as may be prescribed by the committee, the quantity of cranberries for which release is requested and shall be accompanied by a deposit (in cash, or a cashier's or certified check made payable to the Cranberry Marketing Committee) in an amount equal to the product of the number of barrels stated in the request multiplied by the then effective amount per barrel to be deposited. If the committee determines such request is properly filled out, is

accompanied by the required deposit, and contains a certification that the handler is withholding such cranberries, it shall release to such handler the quantity of cranberries specified in his request. Such determination shall be made not later than 72 hours after the request is received by the committee.

(c) Funds deposited for the release of withheld cranberries, pursuant to paragraph (a) of this section, shall be used by the committee to purchase from handlers unrestricted (free percentage) cranberries in an aggregate amount as nearly equal to, but not in excess of, the total quantity of the released cranberries as it is possible to purchase to replace the released cranberries. All handlers shall be given an opportunity to participate in such purchase. If a larger quantity is offered than can be purchased, the purchases shall be made at the lowest prices possible. If two or more handlers offer at the same price, purchases from such handlers shall be in proportion to the quantity of their respective offerings insofar as such division is practicable. The cranberries so purchased shall be disposed of by the committee as restricted cranberries in accordance with § 929.57. Any funds received by the committee for cranberries so disposed of, which are in excess of the costs incurred by the committee in making such disposition, shall be paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler.

(d) In the event any portion of the funds deposited with the committee pursuant to paragraph (a) of this section cannot, for reasons beyond the committee's control, be expended to purchase unrestricted (free percentage) cranberries to replace those released, such unexpended funds shall, after deducting expenses incurred by the committee in connection with the purchase and disposition of cranberries pursuant to paragraph (c) of this section, be offered and paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. In the event that the offer is not accepted or directions given by a handler to credit the funds within 90

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days, the funds will accrue to the committees's general account.

(e) Cranberries purchased by the committee to replace released cranberries shall be inspected and shall meet such standards as are prescribed for withheld cranberries.

(f) Inspection of withheld cranberries released to a handler is not required.

[29 FR 6618, May 21, 1964, as amended at 38 FR 29801, Oct. 29, 1973; 43 FR 29765, July 11, 1978]

§ 929.57 Outlets for restricted cranberries.

(a) Except as provided in this section and in § 929.56, cranberries withheld from handling may be disposed of only through diversion to such outlets as the committee, with the approval of the Secretary, finds are noncompetitive to outlets for unrestricted (free percentage) cranberries.

(b) The storage and disposition of all cranberries withheld from handling shall be subject to the supervision and accounting control of the committee.

§ 929.58 Exemption.

(a) Upon the basis of the recommendation and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements pursuant to this part the handling of cranberries in such minimum quantities as the committee, with the approval of the Secretary, may prescribe.

(b) The committee, with the approval of the Secretary, shall prescribe such rules, regulations, and safeguards as it may deem necessary to ensure that cranberries handled under the provisions of this section are handled only as authorized.

§ 929.59 Excess cranberries.

(a) Whenever the Secretary establishes an allotment percentage pursuant to § 929.52, handlers shall be notified by the committee of such allotment percentage and shall withhold from handling such cranberries in excess of the total of their growers' annual allotments obtained during such period. Such withheld cranberries shall be defined as "excess cranberries" after

all unused allotment has been allocated.

(1) Excess cranberries received by a handler shall be made available for inspection by the committee or its representatives from the time they are received until final disposition is completed. Such excess cranberries shall be identified in such manner as the committee may specify in its rules and regulations with the approval of the Secretary.

(2) All matters dealing with handler-held excess cranberries shall be in accordance with such rules and regulations established by the committee, with the approval of the Secretary.

(b) Prior to January 1, or such other date as recommended by the committee and approved by the Secretary, handlers holding excess cranberries shall submit to the committee a written plan outlining procedures for the systematic disposal of such cranberries in the outlets prescribed in § 929.61.

(c) Prior to March 1, or such other date as recommended by the committee and approved by the Secretary, all excess cranberries shall be disposed of pursuant to § 929.61.

[57 FR 38750, Aug. 27, 1992]

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§ 929.60 Handling for special purposes.

Regulations in effect pursuant to §§ 929.10, 929.41, 929.47, 929.48, 929.49, 929.51, 929.52, or 929.53 or any combination thereof, may be modified, suspended, or terminated to facilitate handling of excess cranberries for the following purposes:

- (a) Charitable institutions;
- (b) Research and development projects described pursuant to § 929.61;
- (c) Any nonhuman food use;
- (d) Foreign markets, except Canada; and

(e) Other purposes which may be recommended by the committee and approved by the Secretary.

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§ 929.61 Outlets for excess cranberries.

(a) *Noncommercial outlets.* Excess cranberries may be disposed of only in the following noncommercial outlets