

## Agricultural Marketing Service, USDA

## § 929.48

during the first part of a fiscal year, before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purposes.

(c) If a handler does not pay such assessment within the period of time prescribed by the committee, the assessment may be increased by either a late payment charge, or an interest charge, or both, at rates prescribed by the committee, with the approval of the Secretary.

[57 FR 38748, Aug. 27, 1992]

### § 929.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the committee, with the approval of the Secretary, may carryover such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, it shall be refunded proportionately to the handlers from whom the excess was collected. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate; *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

### RESEARCH

### § 929.45 Research and development.

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of produc-

tion research, marketing research, and market development projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cranberries. The expense of such projects shall be paid from funds collected pursuant to § 929.41, or from such other funds as approved by the Secretary.

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

[57 FR 38748, Aug. 27, 1992, as amended at 70 FR 7641, Feb. 15, 2005]

### REGULATIONS

### § 929.46 Marketing policy.

Each season prior to making any recommendation pursuant to § 929.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the crop year. Such marketing policy shall contain the following information for the current crop year:

(a) The estimated total production of cranberries;

(b) The expected general quality of such cranberry production;

(c) The estimated carryover, as of September 1, of frozen cranberries and other cranberry products;

(d) The expected demand conditions for cranberries in different market outlets;

(e) The recommended desirable total marketable quantity of cranberries including a recommended adequate carryover into the following crop year of frozen cranberries and other cranberry products;

(f) Other factors having a bearing on the marketing of cranberries.

[70 FR 7641, Feb. 15, 2005]

### § 929.48 Sales history.

(a) A sales history for each grower shall be computed by the committee in the following manner:

(1) For growers with acreage with 6 or more years of sales history, the sales history shall be computed using an average of the highest four of the most recent six years of sales.

(2) For growers with 5 years of sales history from acreage planted or replanted 2 years prior to the first harvest on that acreage, the sales history is computed by averaging the highest 4 of the 5 years.

(3) For growers with 5 years of sales history from acreage planted or replanted 1 year prior to the first harvest on that acreage, the sales history is computed by averaging the highest 4 of the 5 years and in a year prior to a year of a producer allotment volume regulation shall be adjusted as provided in paragraph (a)(6) of this section.

(4) For a grower with 4 years or less of sales history, the sales history shall be computed by dividing the total sales from that acreage by 4 and in a year prior to a year of a producer allotment volume regulation shall be adjusted as provided in paragraph (a)(6) of this section.

(5) For growers with acreage having no sales history, or for the first harvest of replanted acres, the sales history will be the average first year yields (depending on whether first harvested 1 or 2 years after planting or replanting) as established by the committee and multiplied by the number of acres.

(6) In a year prior to a year of a producer allotment volume regulation, in addition to the sales history computed in accordance with paragraphs (a)(3) and (a)(4) of this section, additional sales history shall be assigned to growers using the formula  $x=(a-b)c$ . The letter "x" constitutes the additional number of barrels to be added to the grower's sales history. The value "a" is the expected yield for the forthcoming year harvested acreage as established by the committee. The value "b" is the total sales from that acreage as established by the committee divided by four. The value "c" is the number of acres planted or replanted in the specified year. For acreage with five years of sales history: a = the expected yield for the forthcoming sixth year harvested acreage (as established by the committee); b = an average of the most recent 4 years of expected yields (as established by the committee); and c = the number of acres with 5 years of sales history.

(b) A new sales history shall be calculated for each grower after each crop

year, using the formulas established in paragraph (a) of this section, or such other formula(s) as determined by the committee, with the approval of the Secretary.

(c) The committee, with the approval of the Secretary, may adopt regulations to change the number and identity of years to be used in computing sales histories, including the number of years to be used in computing the average. The committee may establish, with the approval of the Secretary, rules and regulations necessary for the implementation and operation of this section.

(d) Sales histories, starting with the crop year following adoption of this part, shall be calculated separately for fresh and processed cranberries. The amount of fresh fruit sales history may be calculated based on either the delivered weight of the barrels paid for by the handler (excluding trash and unusable fruit) or on the weight of the fruit paid for by the handler after cleaning and sorting for the retail market. Handlers using the former calculation shall allocate delivered fresh fruit subsequently used for processing to growers' processing sales. Fresh fruit sales history, in whole or in part, may be added to process fruit sales history with the approval of the committee in the event that the grower's fruit does not qualify as fresh fruit at delivery.

(e) The committee may recommend rules and regulations, with the approval of the Secretary, to adjust a grower's sales history to compensate for catastrophic events that impact the grower's crop.

[70 FR 7641, Feb. 15, 2005]

**929.49 Marketable quantity, allotment percentage, and annual allotment.**

(a) Marketable quantity and allotment percentage. If the Secretary finds, from the recommendation of the committee or from other available information, that limiting the quantity of cranberries purchased from or handled on behalf of growers during a crop year would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish a marketable quantity for that crop year.