

Chapter Ag 97

MARKETING ORDER FOR CRANBERRIES

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Ag 97.01 Definition of area. This order shall be applicable to all cranberries produced in Wisconsin.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65.

Ag 97.02 Definitions. (1) "Secretary" means the secretary of the state department of agriculture of the state of Wisconsin.

(2) "Cranberries" means all varieties of the commonly cultivated fruit *Vaccinium Macrocarpon* known as cranberries grown in the production area.

(3) "Producer" means any person, individual, partnership, corporation, association or any other business unit engaged in the business of producing or causing to be produced cranberries for fresh distribution or for processing.

(4) "Processor" means any person, firm, cooperative association, corporation, partnership, company or other business unit which performs any of the functions of processing cranberries.

(5) "Process" or "processing" are synonymous terms and mean the operation of canning, packing, freezing, preserving or otherwise preparing cranberries as herein defined for marketing in any form other than for fresh consumption.

(6) "Sales agency" means any person, firm, cooperative association, corporation, partnership, company or other business unit which performs the duties of negotiating, distributing or selling of cranberries either fresh or processed.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. (1), Register, October, 1974, No. 226, eff. 11-3-74.

Ag 97.03 Advisory council. (1) **MEMBERSHIP.** An advisory council is established consisting of 5 members who shall assist the secretary in the administration of this marketing order. Advisory council members shall be active producers engaged in the business of growing cranberries. Members shall be nominated and elected in accordance with the provisions of the Wisconsin Agricultural Marketing Act (s. 96.14, Stats.) which shall be as follows: At the time the secretary issues a call for nominations to the advisory council any active producer can become a candidate for an advisory council position by submitting his nomination to the secretary. The nomination must be signed by 5 qualified producers and must reach the secretary prior to the expiration date. At the time of the referendum, each producer will vote for all 5 positions. The 5 individuals receiving the highest number of votes will assume active membership on the advisory council, the 5 receiving the next highest number

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of votes will become alternate members. The first alternate shall be the person who received the sixth highest number of votes; the second alternate the seventh highest number of votes, etc. The alternate members of the council will be asked to serve in the absence of a regular member and shall assume rights and privileges accorded the regular member. In the event of death, removal, resignation or disqualification of a member, the first alternate shall become his successor. In the event nominations are not made pursuant to the provisions of s. 96.14 of the Wisconsin Agricultural Marketing Act, the secretary may nominate members and alternate members.

(2) **TERM OF OFFICE.** The term of office of the members and alternate members shall be 3 years. The term of office shall commence with the effective date of this order and all members shall serve until their successors have been elected.

(3) **VACANCIES.** To fill any vacancy the secretary shall follow the directive of s. 96.14 (3) of the Wisconsin Agricultural Marketing Act and appoint a replacement.

(4) **DUTIES.** The duties of the council shall be advisory only and may include the following:

(a) To recommend to the secretary administrative rules relating to the marketing order.

(b) To receive and report to the secretary complaints of violations of the marketing order.

(c) To recommend to the secretary amendments to the marketing order.

(d) To advise the secretary in the assessment of members of the industry and in the collection of funds to cover expenses incurred by the secretary in the administration of this order.

(e) To advise the secretary in the collection of such information and data as the secretary may deem necessary to the proper administration of this order.

(f) To advise the secretary in the administration of this order.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. Register, October, 1974, No. 226, eff. 11-1-74.

Ag 97.04 Assessments. (1) During the effective period of this marketing order each producer shall be liable for an annual assessment of 3 cents per barrel on all cranberries sold and/or delivered to his respective sales agency or processor. The funds collected shall be budgeted to carry on applied research studies and financing an educational program on quality improvement as described under Wis. Adm. Code s. Ag 97.07.

(2) It shall be the duty of each sales agency or processor to deduct such assessment from any amounts due to producers for cranberries received or handled by the agency or processor.

(3) It shall be the duty of each sales agency or processor to remit to the secretary all such assessments levied and collected. This shall be done on or before March 1 of the year following the collection.

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(4) In the event a producer is his own sales agent and does not deliver his cranberries to one of the sales agencies or processors, he will be required to file and pay his assessment fees in accordance with the requirements as indicated for the sales agencies or processors.

(5) In the event of failure of any person to pay any assessments payable hereunder, the secretary may bring an action against such person in a court of competent jurisdiction for collection thereof.

(6) In the event of the failure of any sales agency or processor to collect the assessments levied hereunder, such processor shall be personally liable for such assessments.

(7) Upon termination of this order, any assessment monies collected and not expended shall be returned to the affected producers entitled thereto.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. (1) Register, September, 1974, No. 226, eff. 10-1-74; am. (3) and (6), Register, October, 1974, No. 226, eff. 11-1-74.

Ag 97.05 Reports. To determine compliance with the provisions of s. Ag 97.04, the secretary may require:

(1) Each sales agency, processor or independent marketer to report to the secretary the name and address of each producer, quality and quantity of cranberries delivered and sold and/or processed.

(2) Each sales agency, processor or independent marketer to submit such additional reports and information from time to time as may be necessary.

(3) Each producer to file such reports as he may deem necessary to effectuate the administration of the order.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. (intro. par.) and (1), Register, October, 1974, No. 226, eff. 11-1-74.

Ag 97.06 Applied research studies. (1) Monies collected from the per barrel assessment charges as prescribed under s. Ag 97.04 (1) shall be budgeted and an amount designated for applied research studies. Under this provision the secretary may carry on or cause to be carried on research, surveys, and economic studies as may be applied to production, processing and/or distribution of cranberries. Such research and survey studies may include, but shall not be limited to, developing new and improved varieties, production practices, including use of chemicals for insect, weed, and disease control developing objective quality and maturity factors for cranberries, improving methods and techniques of harvesting cranberries and initiate studies and surveys especially as they might apply to packaging, handling, and marketing techniques to promote more efficient operations. The secretary in addition to activities enumerated above may carry on any other necessary and proper research and survey activities consistent with and subject to the restrictions and limitations of the Wisconsin Agricultural Marketing Act.

(2) In carrying out such plans and activities as described in this section, the secretary may contract with any person, agency or institution qualified to best perform this service.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. Register, October, 1974, No. 226, eff. 11-1-74.

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Ag 97.07 Educational program. Monies collected from the per barrel assessment charges as prescribed under s. Ag 97.04 (1) shall be budgeted and an amount designated for conducting an educational program on climatic conditions as they affect cranberry production. Under this provision the secretary shall arrange with the U.S. department of commerce, national oceanic and atmospheric administration, national weather service, the procedures for conducting this service. This program would involve a special service of forecasting temperature, weather, and other pertinent climatic conditions during the cranberry growing season, and disseminating this information to the cranberry growers via appropriate communications media.

History: Cr. Register, August, 1965, No. 116, eff. 9-1-65; am. Register, September, 1974, No. 225, eff. 10-1-74.

Note: Section 96.08, Stats., provides that every marketing order shall terminate 3 years from the date of its issuance or last assent, but that a referendum shall be conducted within 6 months of the expiration of such 3-year period to determine whether the marketing order shall remain in effect. Since its original adoption in 1965, Wis. Adm. Code ch. Ag 97, the marketing order for cranberries, has been extended for successive 3-year periods by referenda conducted in accordance with requirements of s. 96.08, Stats. Its continuation for an additional 3-year period was assented to by producers of cranberries in a referendum conducted in August, 1980, and will, therefore, remain in effect for a further period of 3 years expiring August 31, 1983.