

# **Cranberry Marketing Order Volume Regulation**

David Farrimond  
Cranberry Marketing Committee

## **Why is there a marketing order for cranberries?**

During the 1950's, production of cranberries increased as growers improved their cultivation and harvesting practices. Cranberry sales centered primarily on the Thanksgiving fresh fruit market. On November 9, 1959, Arthur S. Flemming, Secretary of the U.S. Department of Health, Education and Welfare, announced that a herbicide, aminotriazole, had been used on cranberries in Oregon and Washington. Aminotriazole had been found to cause cancer in mice. Cranberries treated with the herbicide had already been distributed into the marketplace before they could be recalled. These cranberries could not readily be identified so the public viewed all cranberries as suspect. The demand for cranberries plummeted and the marketplace was glutted with unsold and unwanted cranberries.

Independent testing was conducted, at the behest of the industry, where it was found that less than 0.3% of cranberries tested showed any traces of aminotriazole residue. On May 1, 1960, President Eisenhower issued an executive order indemnifying cranberry growers.

While the industry worked to reestablish consumer confidence, sales remained well below pre-November 1959 levels. Meanwhile production continued to increase resulting in oversupply and disorderly markets. Leaders of the cranberry industry determined there was a need to establish a mechanism to administer the surplus fruit.

Operating under the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, public hearings were held throughout the cranberry growing areas. Based on testimony given at the hearings the United States Department of Agriculture conducted growers' referendum, wherein eighty-five percent of the growers voting approved establishment of a federal marketing order. On August 15, 1962, the Federal Cranberry Marketing Order, Title 7, Part 929, Code of Federal Regulations, became effective.

One of the Committee's duties, under the order, is to annually develop a marketing policy. The marketing policy provides for an economic analysis of the cranberry industry. The Committee gathers production, acreage, and sales data from growers, while handlers and processors supply the Committee with data on cranberry acquisitions, utilization, and inventories.

Using industry data and the Committee's projections, a forecast of cranberry production, utilization, and inventory for the ensuing crop year is developed. If, on the basis of its analysis conditions existed that would lead to disorderly markets the Committee can recommend the Secretary, USDA, establish a volume regulation program.

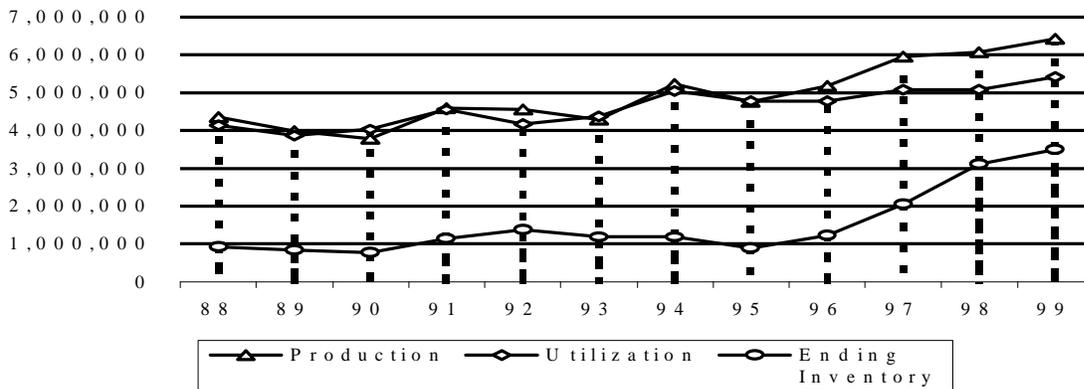
The establishment of a volume regulation program limits the quantity of cranberries, fresh and processed, that can enter commercial markets to that amount equal to the total marketable quantity of cranberries necessary to meet projected demand and provide for an adequate carryover.

**When are marketing orders effective?**

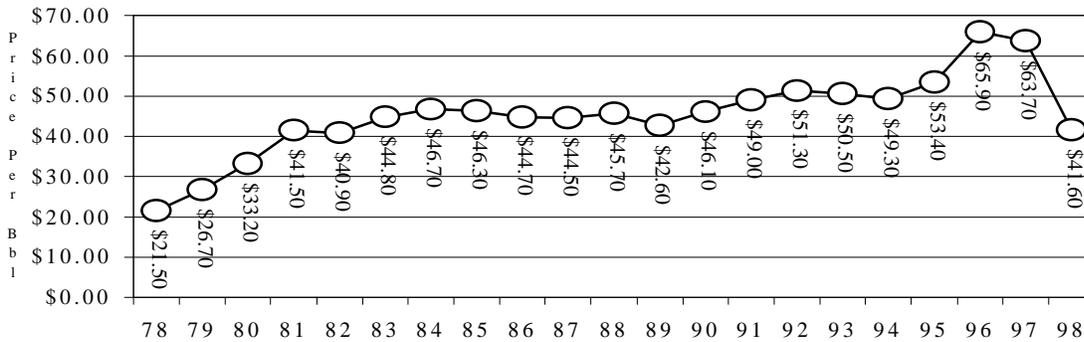
**Marketing orders are effective when:**

- Markets fail, causing disorderly markets.
- When the outlook for reaching equilibrium between supply/demand is long-term in nature. (Figure 1: Source CMC)
- When grower returns fall below the cost of production. (Figure 2: Source NASS)

**S u p p l y / D e m a n d / I n v e n t o r i e s**  
1988 - 1998 Crop Years - Figure 1



**U . S . A v e r a g e P r i c e P a i d P e r B a r r e l**  
1978 - 1998



The Committee has used its volume regulation authority sporadically since its inception. Starting with the 1962 crop year, the Committee has recommended the establishment of a withholding program, often referred to as set aside, on four occasions. (Table 1)

**Table 1: Withholding Programs Established**

Crop Year	Free Percentage	Withholding Percentage
1962	Eighty-eight Percent	Twelve Percent
1963	Ninety-five Percent	Five Percent – Rescinded before implementation
1970	Ninety Percent	Ten Percent
1971	Eighty-eight Percent	Twelve Percent

## **Volume Regulation Programs**

### **Withholding Program**

Under a withholding program the Secretary sets the “free” and “restricted” percentage of cranberries that can be handled. The free and restricted percentages are applied to each handler’s cranberry acquisitions. Each handler would have the same percentage restriction applied. Under withholding growers have to deliver 100% of their harvested crop as the withholding provisions only apply to fruit delivered. All withheld, restricted, cranberries must be inspected by the Federal-State Inspection Service and certified as meeting established quality requirements.

Free cranberries can be marketed through any outlet, while restricted berries have to be withheld from handling and diverted to noncompetitive markets. Currently, noncompetitive outlets for restricted cranberries include exports to countries other than Canada; donations to charitable organizations; disposition to any nonhuman food use; research, and development projects, approved by the USDA, for the development of foreign markets.

The Committee becomes a clearinghouse for restricted cranberries. Handlers can apply to the Committee for a release of their restricted cranberries. However, before restricted fruit is released the handler must deposit an amount equal to the fair market value of the cranberries. The Committee determines the fair market value. The Committee uses deposited funds to purchase an equal amount of free cranberries from other handlers to replace the amount of restricted cranberries released.

The marketing order was amended in 1968 to add another form of volume regulation called the producer allotment program. In 1992, the Committee amended the producer allotment program provisions to simplify procedures.

## **Producer Allotment Program**

Under a producer allotment program the Committee makes a recommendation to the Secretary, USDA, as to the marketable quantity of cranberries needed to meet total market demand and to provide for an adequate carryover.

The Committee then calculates an average sales history for each grower. Currently, the Committee uses a growers' best four, out of six years, of sales in its calculation.

The marketable quantity is then divided by the total average sales histories to derive at an allotment percentage. This percentage is applied to each individual grower's average sales history, and the result is the producer allotment, i.e., amount of fruit that handlers can handle on behalf of that grower. If a grower sells to more than one handler the grower must declare, on a form provided by the Committee, the distribution of their producer allotment among those handlers.

Cranberries received by handlers in excess of their total producer allotments are referred to as "excess" cranberries. Handlers cannot place excess cranberries into commercial markets. However, excess cranberries can be used in noncommercial or noncompetitive outlets. Noncommercial outlets are defined as charitable institutions and research and development projects. Noncompetitive outlets are defined as nonhuman uses and foreign markets (except Canada).

Under a producer allotment program growers can make adjustments in their cultural practices during the growing season in order to adjust their production to meet their producer allotment.

## **Application**

Volume regulation programs only apply to domestically produced cranberries and do not apply to cranberries produced outside of the United States.

## **Compliance Issues**

To ensure compliance with a volume regulation program the Committee conducts audits and onsite inspections of handlers and producer-handlers to verify restricted or excess cranberries are being maintained. The marketing order requires handlers to provide the Committee with written documentation on any disposition of restricted or excess cranberries through noncommercial and noncompetitive markets.

Handlers and producer-handlers are subject to further enforcement action by the USDA if they are found to be out of compliance with the regulations. Penalties associated with enforcement range from fines to legal action.

## **Conclusion**

The cranberry industry finds itself in an economic downturn, the duration of which is difficult to foresee. Options available to the industry include increasing demand or limiting supply. Everyone would agree to ensure industry stability in the long-term requires growing the market by increasing the demand for cranberries and cranberry products. However, to accomplish these objectives will take time and an aggressive effort on the part of the industry. While in the short-term the most pressing issues are growing inventories and decreasing grower returns.

The industry must weigh all options available to it in addressing the short-term and long-term issues facing it. Increased health related research and aggressive marketing programs consisting of branded and generic promotions, domestically and internationally, will be beneficial in achieving those long-term objectives.

However, in the short-term the marketing order's volume regulation provisions provide the industry with a means to address the immediate problem of disorderly markets caused by increases in supply and falling grower returns. Whether the industry wishes to proceed with establishing a regulatory program is yet to be decided.

The CMC subcommittee continues its review and discussion the possibility of utilizing a regulatory program as part of an overall industry strategy to address these issues. This process will include an industry meeting in January 2000 and will culminate with a report on its findings to the full Committee in February 2000.