



**2018 SPECIAL MEETING
HANDLER WITHHOLDING DISCUSSION
HILTON BOSTON LOGAN AIRPORT, BOSTON, MA
JANUARY 17, 2018**

WEDNESDAY, JANUARY 17, 2018

The CMC Special Meeting was called to order by Chairman Rezendes on Wednesday, January 17, 2018 at 8:59 a.m. at the Hilton Boston Logan Airport, Boston, MA. The Chair requested Ms. Judy Mears, CMC's Executive and Financial Assistant to call the roll, after which the Chairman seated Dawn Gates-Allen for George Bussmann for District 4 Independent member, Kevin Hatton for Frank Glenn, District 4 Major Co Op member, and Joe Darlington for Alex Ells for the Member-At-Large Major Co Op member. The Chair also introduced and welcomed Thomas O'Guinn to his first CMC meeting and announced he is the voting public member. Ms. Mears stated a quorum was present.

<u>Member</u>	<u>P/A</u>	<u>Member</u>	<u>P/A</u>	<u>Alternate</u>	<u>P/A</u>
Larry Harju	P	Adrienne Mollor	P	George Rogers	A
Parker Mauck	P	Jim Rezendes	P	Dawn Gates-Allen	P
Stephen Lee	P			Joe Darlington	P
Tom Gerber	P			William Poinsett	A
Vicki Nemitz	P	Jim Van Wychen	P	Gary Jensen	P
Jill Amundson	P	David Bartling	P	Martin Potter	A
Frank Glenn	A			Kevin Hatton	P
Alex Ells	A			Jesse Rezin	A
George Bussmann	A			Ron Puhl	A
Thomas O'Guinn	P			D. Steven White, Ph. D	P

Chair Rezendes requested Doris Jamieson, the CMC's USDA Marketing Specialist, to read the Anti-Trust Guidelines statement and reminded the Committee and audience that the Handler Withhold Volume Regulation was published on January 2, 2018 in the Federal Register so we are currently under the comment period and ex-parte guidelines are in effect. USDA representatives are present to hear industry concerns but will not be permitted to answer questions, participate in discussions or comment on the rule. USDA personnel will be taking notes and the CMC's Executive Director and her staff will be taking minutes that will be entered into the rulemaking record. This does not replace comments which individuals wishing to do so should submit to <http://www.regulations.gov> as outlined in the rule.

Chairman Rezendes introduced and welcomed USDA's Acting Deputy Administrator Andrew Hatch and Jen Varela and Doris Jamieson, Marketing Specialists to today's meeting. The Chairman began the meeting with a review of the Rules of Order and changes to the agenda and requested that when an audience member speaks to please stand and state their name, if they are a handler or grower, and the company they are affiliated with prior to making their statement.

30 **OVERVIEW AND OUTLINE OF THE PROPOSED RULE**

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32 A review was given by Jill Amundson on the 2017 proposed rule, and then followed with a list of specifics of what
33 we as a committee and industry can do during this meeting. Ms. Amundson summarized the original CMC 2017
34 Handler Withholding volume regulation recommendation from the 2017 summer meeting in Long Beach, WA. She
35 also stated that all comments regarding the proposed rule must be received by February 1, 2018 and will be made
36 public and will be considered by USDA before making their final determination on this volume regulation.

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Proposed Rule - SUMMARY

- Dates: September 1, 2017 to August 31, 2018
- **85% Free**
- **15% Restricted**
 - 50% of restriction can be disposed in processed form
- **Exemptions**
 - Handlers who handle less than 125,000 bbls
 - Handlers with no carryover inventory
 - Organically grown cranberries



Proposed Rule - SPECIFICS

- **Proportion of cranberries that may be handled 85%**
 - Handlers subject to this rule may process, sell, put in inventory, or do what they will with 85% of the useable crop they received.
- **Proportion of cranberries that must restricted 15%**
 - Handlers subject to this rule must restrict 15% of the useable crop they received.



Proposed Rule - SUMMARY

- **Outlets for restricted fruit**
- **Some formatting changes to the order**
- **Comments**
 - Must be received by February 1, 2018
 - All comments will be made public
 - All comments will be considered before a final determination is made on this rule



Proposed Rule - SPECIFICS

- **Disposal**
 - As whole unprocessed fruit
 - As concentrate
 - Up to **50%** of the total disposal amount
 - Subject to the conversion chart in the proposed rule

TABLE 1—CONVERSION TABLE

Region	Bbls average	Concentrate yield for one barrel of concentrate
Oregon	9.8	1.81 gallons 50 Bbls concentrate
Washington	9.3	1.81 gallons 50 Bbls concentrate
New Jersey	8.9	1.72 gallons 50 Bbls concentrate
Wisconsin	8.7	1.70 gallons 50 Bbls concentrate
Massachusetts	8.4	1.64 gallons 50 Bbls concentrate
All others	8.7	1.70 gallons 50 Bbls concentrate



Proposed Rule - SPECIFICS

- **Dates**
 - All actions are to take effect beginning September 1, 2017 and be completed by August 31, 2018.
 - There is no language extending the reach of this beyond one crop year.
 - There is no mention of extensions beyond the crop year for disposal plans.



Proposed Rule - SPECIFICS

- **Outlets for Restricted Fruit**
 - Foreign countries, except Canada
 - Fresh or Unprocessed fruit only
 - Charitable institutions
 - Any nonhuman food use
 - Research and development projects approved by the Committee
 - Domestic or Foreign markets
 - Fresh or Processed fruit



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Proposed Rule - SPECIFICS

- **Exemptions**
 - Handlers who handle less than **125,000 bbls**
 - Handlers of record from the 2016 crop
 - Must handle less than 125,000 bbls
 - Handlers with no carryover inventory
 - Handlers with no inventory as of August 31, 2018
 - Handlers with inventory under contract
 - **Organically grown cranberries**
 - Organically grown cranberries, no certifications mentioned in proposed rule



Possible Actions Now

- **Motions**
 - Rescissions
 - Now that the motion made in August has been placed in a proposed rule, it is **no longer appropriate to rescind the motion**.
 - Amendments
 - Now that the motion made in August has been placed in a proposed rule, it is **no longer appropriate to amend the motion**, but the Committee may want to make new motions to address certain items within the proposed rule.



Proposed Rule - SPECIFICS

- Formatting changes to the order
 - Subparts to adjust for the additions and changes made with this rule
- All comments must be received by February 1, 2018
 - 30 day comment period began on January 2, 2018
- All comments will be made public
 - The name of the individual or entity along with their comment will be made public on the internet
- All comments will be read and considered by USDA before a final determination is made on this rule
 - just because a comment is made does not mean a change will be made



Possible Actions Now

- **New Motions**
 - **A new motion is appropriate to change items within the Committee's authority.**
 - Two items within this rule that fall under this allowance are:
 - Change the percentage of free and restricted fruit, the percent restricted may be lowered, but not raised at this time.
 - Change the percentage of concentrate allowed for disposal in lieu of whole fruit.



Proposed Rule VS Recommendation

PROPOSED RULE	CMC RECOMMENDATION
Dates: 9/1/17 – 8/31/18	✓
85% Handled	✓
15% Restricted	✓
50% Processed Disposal	✓
125,000 bbl Exemption	X
No Carryover Inventory Exemption	X
Organic Exemption	✓ (worded differently)
Outlets for Restricted Fruit	✓
Formatting Changes	✓
30-Day Comment Period	✓
Comments Made Public	✓
Comments Considered before Final Rule	✓



Possible Actions Now

- **Comments**
 - Committee, industry and individual comments on the proposed rule
 - Clarifications
 - Confusions
 - Applications
 - Definitions
 - It is appropriate for us to go through the proposed rule and address areas of concern.
 - A guided discussion of each section will try to group comments together to most effectively communicate any potential issues.



SPECIFICS were reported as follows:

- All actions will take effect during the crop year of 9/1/2017 through 8/31/2018
- Extensions beyond the crop year for disposal plans are not included
- Proportion of cranberries that may be handled: 85% - Handlers subject to this rule may process, sell, put in inventory, or do what they will with the 85% of the useable crop they received.
- Proportion of cranberries that must be restricted: 15% - Handlers subject to this rule must restrict 15% of the useable crop they received.
- All comments must be received by February 1, 2018: 30 day comment period began on January 2, 2018

- All comments will be made public and include the name of the individual or entity with their submission
- All comments will be reviewed and considered by the USDA before a final determination is made on this rule

DISPOSAL

- Unprocessed whole fruit can be disposed
- In lieu of whole fruit, up to 50% of concentrate or another processed form may be disposed in barrel equivalencies and as proposed in the rule.

OUTLETS FOR RESTRICTED FRUIT

- Foreign countries, except Canada – Fresh or Unprocessed fruit only
- Charitable institutions
- Any nonhuman food use
- Research and development projects approved by the Committee

EXEMPTIONS

- Handlers of record from the 2016 crop and handled less than 125,000 bbls
- Handlers with no inventory as of August 31, 2018, any carry-over inventory must be under contract.
- Organically grown cranberries, clarification will be needed since no certifications were mentioned in proposed rule.

Ms Amundson presented an overview comparing the Proposed Rule vs. the CMC Recommendation and was as follows:

The CMC's recommendation:

- The CMC proposed rule recommended the crop year dates of 9/1/17 – 8/31/18
- Excess fruit would need to be disposed by August 31, 2018
- 85% free percentage of fruit and 15% restricted percentage of fruit
- 50% of disposal could be in processed form.
- The first 125,000 bbl for every handler be exempt, i.e. which would have subjected a 130,000 bbl handler to a 15% restriction on the 5,000 bbls over 125,000. This change restricts an additional 18,750 bbls on this handler in this example.
- Certified organic fruit will be exempt from regulation

The proposed rule as published on January 2, 2018:

- There is an exemption for handlers with no carry-over inventory. This wasn't asked for by the Committee, but given to us by USDA

- Organic Exemption was recommended by the Committee, it is now worded differently. The Committee specifically asked for a USDA certified organic exemption, the rule came out as an organic exemption, not a USDA certified organic exemption.
- Outlets for restricted fruit: Exactly asked for in the Committee motion.
- Formatting changes include new sections to the order
 - §929.108 Outlets for restricted cranberries
 - §929.252 Free and restricted percentages for the 2017-18 crop year
- 30-Day comment period; comments will be made public and considered prior to the final rule being published

POSSIBLE ACTIONS

- MOTIONS
 - Rescissions: Now that the motion made in August has been placed in a proposed rule, it is no longer appropriate to rescind the motion.
- AMENDMENTS
 - Now that the motion made in August has been placed in a proposed rule, it is no longer appropriate to amend the motion; however the Committee may want to make new motions to address certain items within the proposed rule.
- NEW MOTIONS – A new motion is appropriate to change items within the Committee's authority. Two items within this rule that fall under this allowance are:
 - Make a motion to change the percentage of free and restricted fruit, the percent restricted may be lowered, but not raised at this time.
 - Change the percentage of concentrate allowed for disposal in lieu of whole fruit.

COMMENTS –

- Committee, industry and individual are strongly encouraged to comment on the proposed rule. These comments may include the need for clarification to address any confusion with the proposed rule, the application of the handler withholding program and definitions
- It is appropriate for us to go through the proposed rule and address areas of concern.
- A guided discussion of each section will try to keep group comments together to most effectively communicate any potential issues.
- The Committee will not make any recommendations; it will just submit the minutes including the comments received during this meeting.

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REVIEW OF AUGUST 2017 MARKETING POLICY

2017 Crop Year Cranberry Marketing Policy Estimated Carry-In, Supply, Sales/Usage & Carryout Inventory (9/01/2017 - 8/31/2018) Presented 8/1/2017			
	CMC Feb 2017 Estimate	CMC Aug 2017 Estimate	2016 (for reference)
	1,000 Barrels		
1 Estimated Carry-In	10,001	9,856	8,305
<i>Production & Acquired</i>			
2 Estimated Domestic Production	9,055	9,141	9,251
3 Estimated Foreign Acquired	1,960	2,087	2,130
4 Total Production & Acquisitions (2+3)	11,015	11,228	11,381
5 Available Supply (1+4)	21,016	21,084	19,686
<i>Estimated Shrinkage</i>			
6 2% of Carry-in (1)	200	197	
7 4% Estimated Production/Acquisitions (4)	441	449	
8 Estimated Shrinkage (6+7)	641	646	187
9 Adjusted Supply (5-8)	20,375	20,438	19,499
<i>Sales & Usage</i>			
10 Fresh Fruit Sales	331	333	333
11 Processing Fruit Usage	9,381	9,196	9,196
12 Total Sales/Usage (10+11)	9,712	9,528	9,528
13 Estimated Adjusted Carry-over	10,663	10,910	9,856
14 Inventory as a % of sales	110%	115%	103%

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Parker Mauck reviewed the 2017 August marketing policy document. Following Mr. Mauck's presentation, Peter Wyman, a member of Ocean Spray's management team, began his presentation of their estimated crop figures for 2017.

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Mr. Wyman provided Ocean Spray Cranberries (OS) estimates of the crop for 2017. Mr. Wyman stated that from the 2017 marketing policy, the Committee's estimates were 9.14M bbls. OS is now estimating the crop at 8.26M bbls, down approximately 900k bbls, or 10% versus the estimate. Mr. Wyman noted Mother Nature already removed the 15% of excess fruit, as originally intended, from inventory for 2017. Mr. Wyman also noted that the only area where cranberry production didn't decrease in 2017 was from Oregon. Wisconsin, Massachusetts, New Jersey and Washington were all down in production. Reason's for the decrease in production included drought, deer damage, smaller and poor color of fruit and decreased inputs by growers due to low returns.

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	2016 Actual	CMC Aug. Est. for 2017	Jan. '18 Harvest Est. 2017	Diff. 2017 Est. from August to Jan.
MA	2.10	1.98	1.79	-0.20
NJ	0.58	0.58	0.42	-0.16
OR	0.38	0.45	0.42	-0.03
WA	0.16	0.16	0.13	-0.03
WI	6.03	5.97	5.50	-0.47
U.S. total	9.25	9.14	8.26	-0.88
BC	1.0	1.1	0.87	-0.23
QC plus EC	2.8	2.25	1.80	-0.45
CH	0.49	0.48	0.48	0.00
Industry total	13.54	12.97	11.41	-1.56

* The January 2018 estimate is not an official CMC estimate

139 Mr. Mauck reviewed slides that compared the original proposal based on the estimated crop from the Aug 2017
140 CMC meeting and the estimated actual crop changes in production. Also included was an option to lower the
141 restricted percentage from the original 15% to 5% withholding. The focus of this exercise is to see the cost impact to
142 growers for the disposal of fruit for the handler withholding.
143

2017 Handler Withholding Figures		Industry			
Assumptions					
		QTY	August '17 Estimates		
Mid Sized Handler		7	300,000 bbls. each		
Large handler		1	5,000,000 bbls. each		
2017 crop and handles were down 10% from estimates					
Disposal costs are estimates and will likely vary somewhat from one handler to another					
Costs do not include the cost of processing or lost sales.					
All figures are estimates					
	1	2	3	4	
	Original Proposal	Revised Proposal	Revised Proposal New Crop Numbers 15%	Revised Proposal New Crop Numbers 5%	
Crop Size	9,141,000	9,141,000	8,260,000	8,260,000	
Volume of Handlers above 125K	7,100,000	7,100,000	6,390,000	6,390,000	
Exemptions for Lg handlers	1,000,000	0	0	0	
Regulated Volume	6,100,000	7,100,000	6,390,000	6,390,000	
HW %	15%	15%	15%	5%	
Fruit removed	915,000	1,065,000	958,500	319,500	
Total Disposal Costs at \$16.77/bbl.	\$ 15,344,550.00	\$ 17,860,050.00	\$ 16,074,045.00	\$ 5,358,015.00	
Crop Reduction and Costs to Growers					
HW	915,000	1,065,000	958,500	319,500	
Nature			881,000	881,000	
Total	915,000	1,065,000	1,839,500	1,200,500	
Cost per barrel to growers	\$ 2.16	\$ 2.52	\$ 2.52	\$ 0.84	
Key Points					
1 Option 4 saves the growers \$10,000,000					
2 Option 4 takes out more fruit than was targeted in August '17					
3 Option 4 dramatically decreases the financial burden on regulated growers					
4 Under option 4 the impact on a regulated grower is more similar to a non regulated grower					
5 Option 4 is very fair, hits the industry target, and saves growers money.					
6 However, it should be noted that the "Natural" reduction brings additional costs to the grower due to less barrels					

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146 The original recommendation from August shows a per barrel cost to growers for disposal of 15% at approximately
147 \$2.16/bbl to the handlers that are regulated which will get passed on to the growers. In comparison, with the
148 125,000 barrel exemption modified, the cost still remains high to growers at \$2.52 bbls. The final example in the
149 chart shows that a decrease in the restricted percentage from 15% to 5%, handlers will be restricting
150 approximately 320k bbls from inventory and then adding the Mother Nature affect of 881k bbls, still removes 1.2M
151 bbls out of the market place. Because Mother Nature did the heavy lifting by removing bbls out of the market place
152 naturally, the cost of disposal that is passed on to growers is significantly reduced to \$0.84 bbls, the amount of fruit
153 to regulate has been reduced. Going through this exercise gives us a clear picture of which of these examples
154 makes the most sense. The gift Mother Nature gave the industry helps us achieve a number that actually surpasses
155 the Committee's original plan to remove fruit from the market place through natural reduction, while giving the
156 cranberry industry the ability to do that at a bargain price compared to the other plans.

157
158 Chairman Rezendes noted these are just to show the range that each of the programs fall into. As shown, the first
159 three are in the same range, but in the last program by going from 15% to 5% you'd save a third of your cost.

160
161 Mr. Mauck continued with how the proposed changes may impact the growers throughout the industry based on the
162 size of the handlers they ship to. Mr. Mauck reviewed the
163 differences in impact of the proposed rule versus the original
164 rule. What was found was the impact to growers differs
165 dramatically.

166
167 Chairman Rezendes stated we are now in late January and
168 we should expect that we won't get back a final rule until at
169 the earliest March. By the time we get the final handler
170 withholding rule published, we may be into late April or May
171 by the time a company can actually process or dispose of
172 excess fruit.

173
174 EXEMPTIONS OVERVIEW

175 Chairman Rezendes led the discussion and explained that
176 what was proposed and what is in the rule as it's written is
177 that any handler that handles less than 125,000 bbls is
178 exempt. He explained that in the original motion, we had
179 the first 125,000 bbls for every handler exempt. In the
180 current written proposed rule, it states it would only exempt
181 small handlers who process less than 125,000 barrels or
182 handlers who wouldn't have carryover inventory at the end
183 of fiscal year (2017-18) from the restriction, and that the
184 125,000 barrel exemption would not apply to handlers who
185 did not meet those conditions.

186
187 Perception of Fairness:

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189 Presented by Parker Mauck, Decas Cranberry

190 Mr. Mauck presented how the change in the 125,000 bbl exemption will impact the growers and members of the
191 industry he has spoken with since the rule was published January 2, 2018. The original proposal was perceived as
192 fair, because whether you liked it or not, all handlers across the board received the same exemption. As it's
193 currently written, it discriminates based on the size of the handler. It's critical that we relay to the USDA the
194 potential for different growers to be impacted differently based on the rule as it's written. The program is supposed
195 to benefit growers, however some growers will be penalized based on the type of handler they sell to while others
196 are not affected.

2017 Handler Withholding Figures

Handler Comparison

Assumptions

Disposal costs are estimates and will likely vary somewhat from one handler to another

All figures are estimates

Costs do not include the cost of processing or lost sales.

Original Proposal	15.00%			
	Small Handler less than 125k bbls.	Mid Sized Handler	Large handler	
Handle	100,000	300,000	5,000,000	
Exemption	125,000	125,000	125,000	
Regulated Handle	0	175,000	4,875,000	
Withholding	0	26,250	731,250	
Total Disposal Costs at \$16.77/bbl.	\$ -	\$ 440,212.50	\$	12,263,062.50
Cost per barrel Rec'd	\$ -	\$ 1.47	\$	2.45

Key Points

1 All handlers receive the same exemption

2 Because the 125,000 bbl exemption is a bigger % of a mid-size handler's volume their per barrel disposal costs are lower when total disposal costs are applied to their entire handle.

Revised Proposal	15.00%			
	Small Handler less than 125k bbls.	Mid Sized Handler	Large handler	
Handle	100,000	300,000	5,000,000	
Exemption	125,000	0	0	
Regulated Handle	0	300,000	5,000,000	
Withholding	0	45,000	750,000	
Total barrels removed all handlers			1,065,000	
Total Disposal Costs at \$16.77/bbl.	\$ -	\$ 754,650.00	\$	12,577,500.00
Cost per barrel Rec'd	\$ -	\$ 2.52	\$	2.52

Key Points

1 Only handlers at 125,000 bbls. or below receive an exemption

2 Cost per barrel to growers increases dramatically for mid-sized handlers

Compare Options 1 to 2

Diff. per barrel cost	\$ -	\$ 1.05	\$	0.06
Diff. total cost	\$ -	\$ 314,437.50	\$	314,437.50
Diff. cost % incr.	-	71%		3%

Revised Proposal B	5.00%			
	Small Handler less than 125k bbls.	Mid Sized Handler	Large handler	
Handle	100,000	300,000	5,000,000	
Exemption	125,000	0	0	
Regulated Handle	0	300,000	5,000,000	
Withholding	0	15,000	250,000	
Total Disposal Costs at \$16.77/bbl.	\$ -	\$ 251,550.00	\$	4,192,500.00
Cost per barrel Rec'd	\$ -	\$ 0.84	\$	0.84

Key Points

1 The cost per barrel to all regulated growers is reduced dramatically.

2 Under this option the impact on a regulated grower is more similar to a non regulated grower

- All small handlers will experience zero impact.
- Mid size handlers will see their impact increase dramatically, in some cases doubled.
- While the very largest handler will experience a subtle impact, since the 125,000 bbl increase is a small percentage of their overall handle.

Cost Increase: All costs filter down and affect grower returns.

- Removing the 125,000 bbl exemption dramatically increases the total disposal costs for mid-sized handlers
- Further reducing the handle for mid-sized handlers spreads fixed costs over less fruit, increasing the cost per bbl
- With less sales revenue, the margin dollars shrink, further reducing a handlers ability to raise grower returns
- The benefit of a reduced crop and subsequent increases in grower returns will be eroded by increased disposal costs for some growers. Growers do not equitably share the costs or benefits.
- The impact on a grower has nothing to do with whether or not the grower has contributed to the surplus.

Perception of Fairness: No Inventory

- Measuring inventory as of August 31, 2018 provides an exemption based on the handlers business model, not “excess” inventory or contribution to surplus. The problem is not inventory; it is “Excess inventory”.
- It discriminates based on the business model of the handler. The program is supposed to benefit growers, but some growers are penalized based on the type of handler they sell, to while others are not affected.
- Verification will be problematic: definitions and clarification are necessary
 - What is inventory? All years, all forms, all “sources”
 - Allowances exist for sales and contracted inventory. Who can the “customer” be?
 - How does the CMC verify?
- Timing: does not relate to the calendar of fruit utilization. Handlers that process fruit need supply until the new crop is frozen.
 - If a handler does not have everything contracted by 8/31/18 and they lose exemption, how do they go back and restrict fruit they don’t have any more?
 - If the date gets moved to 1/31/19 to accommodate SDC processors, if they don’t make it is the disposal date in August?
 - Will this create “fire sales” prior to the August cutoff? This is counterproductive.

PROPOSED RULE COMMENTS BY CATEGORY

CARRYOVER: Chairman Rezendes read aloud as written in the new rule as: Any handler who does not have carryover inventory at the end of the 2018 fiscal year would be exempt.

(Q) Handlers with no carryover inventory, does that also apply only to handlers of record from the 2016 crop?

(A) We need clarification and we are unable to answer.

233 (C) I think it was explained fairly well that the USDA felt the smaller handlers didn't contribute as much to the surplus
234 as the large handlers and therefore they allowed them an opportunity to become exempt based on the 125,000
235 barrel and/or the volume of carryover as of Aug 31, 2018. I think the only thing that's controversial, in my opinion,
236 is the cutoff date. Needing carryover is more in line with how handlers run their businesses today in the SDC market
237 and in the juice market than what actually is occurring with crop usage and dates. This is not beneficial to the
238 midsize handlers with the way this proposed rule is currently written.

239 (C) We're a sweet and dried manufacturer and January 15 is our deadline to use up carryover so they need the
240 90 day carryover.

241 (C) I think December 31st is a good date because it's a reporting end date. We could modify existing forms to
242 show inventory, it will show the crop that came in that year.

243 (C) You would have to extend the disposal date past that date for anybody that is unsuccessful at achieving no
244 inventory.

245 (C) Every year, financial, production, and sales and marketing plans are made to grow demand. I have a hard
246 time delineating whether it's the date of disposal or the reduction in the 125,000 bbl exemption that's more
247 disruptive to this. But both of them appear to be discriminatory to that middle class of handler. We're not creating
248 demand anymore. The bottom line is discrimination can encourage some litigation, and we all want to avoid that if
249 at all possible.

250 (C) The carryover inventory explains the verbiage as "no carryover or under contract". Under contract - under
251 contract with who? This needs clarification: it is too vague and includes unintended opportunities to involve
252 middlemen, contracts, etc.

253 (C) Most handlers would have carryover in order to stay in business. USDA description doesn't go far enough to
254 prevent tracking issues so that staff could properly enforce this part of the rule. It is very concerning that a handler
255 could do a paper transfer and not an actual physical transfer of fruit.

256 (C) On page 76 of the Federal Register, first column, second paragraph talks about the fact that only handlers that
257 have carryover inventory that is not sold or under contract at the end of the 2017-2018 fiscal year would be subject
258 to the 15% restriction. But they don't go far enough in making sure that inventory isn't just sold to somebody else who
259 is going to put it in inventory. About 10-12 years ago, section 926 was permanently suspended. As written today,
260 this has created a large loophole.

261 (C) Would the intent of the language apply to the handler that has carryover to any processor or customer? Once it
262 is sold to a processor, the handler withholding would not apply.

263 (C) The intent is not to penalize an entity as the original entity no longer has produce if it's just given to another
264 processor. It's still in inventory but not regulated.

265 (C) That's why I see this no carryover inventory as such a problem for our industry, as it's written right now; it has
266 the potential to be abused hugely.

267

268 (Q) That is the concern, have we articulated that to sufficiently Jen?

269 (A) Jen Varela, USDA. Yes, that is the type information and a good example to put in a comment.

270 **125,000 BBL EXEMPTION:**

271 (C) My handler handled approximately 200k barrel, and was prepared for 11,250 barrel reductions in crop due
272 to original proposal. Now with the current proposal, he would now need to dispose of 30k barrel on a 200k barrel
273 handle. This would affect them greatly.

274 (C) On the 125,000 barrel as matter of fairness, you should treat everyone the same. Don't pick winners and
275 losers. I am in favor of the way it was written in the original proposal.

276 (C) Every year, financial, production, and sales and marketing plans are made to grow demand. I have a hard
277 time delineating whether it's the date or the reduction in the 125,000 barrel exemption that's more disruptive to this.
278 But both of them appear to be discriminatory to that middle class of handler. We're not creating demand anymore.
279 The bottom line is discrimination can encourage some litigation, and we all want to avoid that if at all possible.
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281 **OUTLETS FOR RESTRICTED FRUIT:**

282 (Q) Can you use processed fruit?

283 (A) Yes, everything is charitable
284

285 (Q) So, in other words, unprocessed or fresh would be for non-competitive foreign countries other than Canada?

286 (A) Yes
287

288 (C) The way we wrote the motion does state that, it's just a clarification is how they wrote section 929.108 that
289 addresses charitable institutions, non-human use.

290 (C) In regards to international markets, we see SDC's in China as a big opportunity for concentrate and juice. India
291 is cumbersome to donate whole fruit without it being in form of SDC or concentrate. Transportation of product is a
292 huge issue. USDA's help would be welcomed.

293 (C) Some are interpreting it as whole fruit or concentrate. If you give to charity you are unable to give SDC's or
294 juice. The answer to this is not in the rule. We understood it when we made the rule in the original proposal to
295 include all forms if we wanted to convert that whole cranberry or concentrate into a usable form to give to charity.
296 We'd like to add those conditions to the rule. As far as undeveloped foreign market access, we would also want the
297 same indication, to include all forms.
298

299 (Q) If a handler gives to charity are they able to give SDC's or juice?

300 (A) The answer to this is not in the rule. We understood that our recommendation in the original proposal was to
301 include all forms if we wanted to convert that whole cranberry or concentrate into a usable form to give to charity.
302 We'd like to add those conditions to the rule. As far as undeveloped foreign market access, we would also want the
303 same indication, to include all forms.
304
305
306

307 **COMMENT PERIOD:**

308 (Q) My family made a comment prior to the comment period, would that be part of that as well, or should I
309 resubmit?

310 (A) Yes, you should resubmit
311

312 (Q) If new motions are voted on and these comments are included in the final Federal Register posting, does the
313 comment period get extended so industry can submit additional comments?

314 (A) No, the next decision will be ruled by the Secretary and will be final.
315

316 (C) Doris Jamieson, USDA. Remember comments are separate from minutes. The minutes will go into the rulemaking
317 package. Comments will be considered prior to finalization. What has been discussed today will be useful in our
318 determination; however individual comments will hold much more weight than today's discussion.
319

320 (Q) I am pleased the comments will be made public. Will the name and region location on comments be noted, and is
321 this something new?

322 (A) Doris Jamieson replied, no.
323

324 **DATES OVERVIEW/DISPOSAL:**

325 (C) We recommended the dates of disposal was to get product out of inventory as soon as possible during our crop
326 year 9/1/17 – 8/31/18

327 (C) Although the options we are talking about for disposal are 12/31/18 through 3/31/19 where handlers can
328 dispose of excess fruit any time. The way the crops are being sold, anyone who has inventory has to have it before
329 the next crop comes in for handler to supply customers.

330 (C) End crop year for disposal should be 1/15/19.

331 (C) If the reporting deadline changes, this VR can end up having zero effect

332 (C) As of Aug 31 if anyone has a zero balance, you would be disrupting demand.

333 (C) Not in favor of a deadline. If you let the market know of a deadline, you will put a rush on purchases in the last
334 week of disposal. No deadline should be put in – it would create “artificial time limits” and will have a negative
335 impact to the grower.

336 (C) No carryover should be limited - carryover is already figured into the industry. To have no carryover would
337 disrupt the industry as a whole. There are pipeline needs.

338 (C) Profitability occurs when carryover is optimal at 50-60%.

339 (C) Carryover needs to be gone by August 1st. If you come up short and are regulated, how do you go back and
340 apply the 15% restriction?

341 (C) It's only because the USDA put the zero carryover in; that we are here.

342 (C) Inventory is industry wide and could address the carryover issue. This should only pertain to raw fruit. Once raw
343 fruit is changed into a finished product, it should be off the table.

344 (C) How you store fruit is messing up the industry.
345 (C) Ending inventory is what it is regardless of how it is stored.
346 (C) I believe when the federal marketing rules were established and maintained over the years, they never intended
347 to regulate processed forms of fruit, only fresh picked, raw fruit off the vine, and prior to processing.
348 (C) To regulate cranberries beyond the grower delivering them to his handler at harvest, under this handler
349 withhold, I believe violates the affect of the cranberry federal marketing order. I believe it is intended to regulate
350 the fruit at the time of harvest, when it is transferred to the handler prior to processing, not after.
351 (C) I think the changes that we made when we proposed the rule; does make it after.
352 (C) We need a definition of sales; and what is the proof of that sale? What is the definition of a contract? We
353 need some guidance and some specifics. If we don't get that, it will leave a lot of room for interpretation.
354 (C) The largest handler is 100% owned by its growers. We are farmer owned. Changing the dates would end up
355 affecting only Ocean Spray.

356

357 **MISCELLANEOUS COMMENTS:**

358 (C) I'm a small grower who in the regulation and USDA process is defined as a producer with less than \$750,000 in
359 annual sales who have mid-sized handlers who are, under the proposed rule, will have twice the burden of people
360 who are under 125,000 bbls, or someone that can prove that they have 100% of their inventory sold. One of our
361 problems we see is if someone is fortunate enough to have a third party contract, does that mean their inventory is
362 sold? If it goes to another handler or somebody that has inventoried, that should not be acceptable. That shouldn't
363 make their fruit, compared to my fruit, exempt. I shouldn't be paying the freight because their handler decides to
364 sell to another handler their entire fruit with a contract, that that fruit becomes exempt. The cost of disposal for
365 growers in Massachusetts, I feel, are more than what some of the regulations in Wisconsin are, so it's going to add a
366 lot more burden to the growers in Massachusetts. I think that the grower with a mid-size handler that will not be
367 exempt from the 125,000 barrel is going to absorb such a large disproportionate share of the cost of disposing of
368 the fruit from that handler.

369

370 (Q) The Alternate Public Member asked what the current return to grower price was and if the average price is \$23
371 and some change by the USDA economist. If this is a handler exemption, the cost to a grower it could be 18-25%.
372 Could the growers afford to take that hit?

373 (A) NO

374

375 (Q) When the USDA wrote the rules, they did not put in a handler of record as of 2016.

376 (A) Doris Jamieson, CMC's USDA Marketing Specialist. That is just a guideline. By having it in the first guideline, it is
377 supported in the second.

378

379 (C) I would like to comment on Jill's point of handler of record of 2016 crop year as a cranberry grower. I believe
380 that it is some sort of a biased tone against new handlers coming into the market place in regards to a potential

381 barrier of entry, although certainly not a complete barrier, but a very large hurdle for any handler that would
382 become a handler of record for crop year 2017 versus 2016.

383 (C) What this discussion is transpired around is a change in what the Committee actually voted on. For the USDA to
384 come in and add their spin it just shows how topsy turvy it can become. My comment or recommendation would be
385 that, if the USDA were to go along with the intention of the rule of the Committee, it would be more efficient and
386 economically beneficial to the cranberry industry. After having the Committee comes to an agreement under all the
387 rules, under all the regulations, under all the scrutiny, and to have it be changed yet again is discouraging to the
388 grower community.

389 (C) I want the USDA to realize, at the last meeting in August, as a group, we worked hard to come to a compromise
390 and agreed with each other that this is a new start to correct oversupply. I feel very defeated after what the
391 Committee went through and to have the USDA step in and change this. The new proposal isn't anything like what
392 we agreed upon. Going back to the original proposal seems to make so much more sense. It would be doing what
393 we wanted to do, in an efficient and cost efficient way, and the changes are just not at all what, represents myself
394 as a grower that sells to a mid-size handler. This will hurt me even more; I just cannot be hurt any more.

395 (C) A reasonable compromise was met but with inequalities. But those inequalities have been exacerbated by the
396 USDA's intervention. USDA's actions are making it worse. In my opinion, increasing demand is the solution; rather
397 than restriction.

398 (C) I request the USDA use the authority they have as they did in 2014 to eliminate the HW 2017 crop and let's
399 address the producer allotment for 2018.

400 (C) The cost of inspections will be passed on to the growers. In addition, the cost of this meeting will be included to
401 the cost of handling this regulation. At this time growers are paralyzed waiting to make any decisions for the 2018
402 crop.

403 (C) The season starts in March and to plan for 2018, growers need decisions. A lot of guess work is trying to be
404 done. With a lot of unknowns, this will have a huge effect on the local economy as a whole.

405 (C) When the Committee met in Washington, no one wanted volume regulation. But our motion in August shows that
406 all growers want to make sure the USDA knows that we all want to make the family farm viable again. We are all
407 concerned about our industry and we are united behind the strength of our family farms.

408 (C) Before we conclude, I would like to ask the USDA to please hurry on the 2018 producer allotment decision.

409 (C) We need to complete this process as soon as possible.

410 (C) I'll second Parker's comments. I've spoken with many growers in my region and they are already implementing
411 plans. Therefore they are counting on the producer allotment and would like an answer as soon as possible.

412 (C) We need to know ahead of time to make plans.

413 (C) Growers believe producer allotment is the way to get this oversupply under control and is the easiest way to get
414 fruit disposed of. I would like to thank the USDA for attending today.

415 (C) I would like to reiterate the importance of the producer allotment decision as soon as possible.

416 (C) I would like to impress upon USDA to attend the CMC's February meeting and I feel it would be beneficial to
417 them in understanding what the industries needs are.

418 Michelle Hogan, CMC Executive Director. We are not ex-parte on the 2018 because it hasn't been published yet;
419 could you give us an update on where we are and if you are waiting for any additional materials? Doris Jamieson,
420 USDA responded: It is in the drafting process, yes. We have heard your comments and requests multiple times, that
421 is expressed and duly noted. We are working on it, yes.

422

423 **ORGANIC REVIEW:**

424 (C) We don't see anything in the proposal as written where it specifies USDA certified as it was requested in the
425 original proposal.

426 (A) Doris Jamieson, USDA Marketing Specialist. The National organic program definition for organic is assumed and
427 would be in effect.

428 (Q) Is that an assumed USDA policy?

429 (A) Doris Jamieson, USDA Marketing Specialist. Yes.

430

431 **CHANGES IN FORMATTING/PROPOSED RULE:**

432 (C) As a point of clarification for us; in the proposed rule submitted, there's a significant amount in the beginning as
433 the justification for the rule as written. At the very end there are three new sections that will be added into the
434 section 929. There is a whole bunch of stuff that is outlined and discussed and mentioned in the beginning that's not
435 specifically mentioned in the three pieces at the end. So when we look at our order normally, for other things we
436 are forced to go by the wording specifically that's in the order of those sections of the 929. So how do we interpret
437 things that may not be explicit in the 929 sections in the proposal?

438 (A) Jen Varela, USDA Marketing Specialist: This is great topic for comments. The USDA does use the entire body of
439 the rule to help put language into context. However if you do have a concern that this would make it difficult for
440 your industry to comply, or for your staff to carry out, then please comment on that.

441 **50% CONCENTRATE LEVEL REVIEW:**

442 (C) I will submit my comment to increase the percentage of disposal of concentrate personally to the USDA.

443 (C) To touch on the concentrate percentage, we agreed as a group on the percentage, but why are we limiting
444 handlers to how they dispose of their fruit. I still support the handler to dispose of whatever product is most
445 beneficial to that handler company.

446 (C) Having more flexibility may make it more cost effective as well. It could reduce cost of you could dump
447 concentrate totally.

448

449 Following a lengthy discussing regarding the proposed rule and recording many of the comments received, Chair
450 Rezendes stated that within our Order we have the possibility to change restricted fruit to a lesser amount. We also
451 have the capability of changing the concentrate option from 50% to both a lesser or greater amount.

452

453 A member of the Committee read aloud from the federal register proposed rules page 76, "One alternative
454 considered was not to impose volume regulation restrictions during the 2017-18 crop year. However, Committee

455 *members believed that inventory levels were such that some form of volume control was necessary to help stabilize*
456 *marketing conditions.” He continued by stating that dipping into our over supply has been taken care of by Mother*
457 *Nature and that we may want to adjust the restricted percentage figures.*

458

459 Chair Rezendes informed the Committee that he would entertain a motion to adjust the restricted amount of 15%
460 handler withhold. He clearly stated that this will be a recommendation and USDA will have the final decision on the
461 adjusted percentage, if any.

462

463 A member of the audience stated our goal at the beginning was to get 15% out of the market, when we take the
464 exemption into account; the net effect is only about 10%. Based on the figures presented earlier, Mother Nature
465 took 12% out, so in theory the first proposal is void.

466

467 **Mr. Mauck motioned to reduce the handler withhold percentage from 15% to 5%. Seconded by, Ms. Mollor.**

468

469 It was asked if the numbers projected today accurately reflect actuals. Although the Q1 figures will not be
470 reported until after January 20th, Michelle Hogan, CMC Executive Director, responded she felt very comfortable
471 with the numbers presented and had spoken with several handlers and growers in each of the districts and all
472 agreed they were in line with 8.2 for the 2017 crop. Chairman Rezendes, Mr. Wyman, Mr. Mauck and others
473 agreed there is a high level of confidence with this figure.

474 Ms. Varela, USDA Marketing Specialist asked for clarification about comments made earlier about the cost being
475 disproportionate at the current levels. Could anybody speak to how this change is particularly going the benefit
476 those mid-size handlers that you were concerned about at 15%? Several explained the 15% to 5% restriction
477 would dramatically decrease the cost that gets passed down and absorbed by the growers from \$2.52 to \$0.84.
478 This applies to all handlers across the board - not just mid-size handlers.

479

480 After hearing no further comments, Chairman Rezendes asked the Executive & Financial Assistant to take a roll call
481 vote. **The motion passes to reduce the handler withhold percentage from 15% to 5% with a vote of 12 for, 1**
482 **against, and 1 abstained.**

483

Yes	No	Abstain
Ms. Amundson		
Mr. Bartling		
Ms. Gates-Allen		
Mr. Darlington		
Mr. Gerber		
Mr. Hatton		
Mr. Harju		
Mr. Lee		
Mr. Mauck		
Ms. Mollor		
Ms. Nemitz		
		Mr. O'Guinn
Mr. Rezendes		
	Mr. Van Wychen	
12	1	1

484

485

486 Chairman Rezendes asked for any additional comments or business before the committee. Hearing no additional
 487 business to come before the Committee, **Mr. Van Wychen moved to adjourn the meeting. Seconded by, Mr. Lee.**
 488 **Motion carried unanimously.**

489

490 *Meeting adjourned at 2:30 pm*

491 Respectfully submitted,

492

493 Judy Mears

494 Recording Secretary