

Oregon Raspberry Blackberry Commission Administrative Rule

Division 10 REPORTING AND PAYMENT OF ASSESSMENT

611-010-0005

Definitions

- (1) "Person" means any individual, corporation, association, partnership or joint stock company.
- (2) "Commission" means the Oregon Raspberry and Blackberry Commission.
- (3) "Casual Sale" means any sale or sales of caneberries made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 5,000 lbs.
- (4) "First Purchaser" means any person who buys caneberries from the producer in the first instance, or handler who receives the caneberries in the first instance from the producer for resale or processing.
- (5) "Producer" means a person or other legal entity producing caneberries in Oregon for market, whether as a landowner, landlord, tenant, sharecropper or otherwise.
- (6) "Handler" means any producer, processor, distributor or other person engaged in handling or marketing of or dealing in caneberries, whether as owner, agent, employee, broker or otherwise.
- (7) Caneberries consists of the trailing berries species:
 - (a) *Rubus* sp. *hyb.* (including, but not limited to, the cultivars Boysen, Logan, and Marion); and
 - (b) *R. Laciniatus* West. (Evergreen Thornless Blackberry) and raspberries species including, but not limited to;
 - (c) *R. idaeus-strigosus* L. (Red Raspberry); and
 - (d) *R. occidentalis* L. (Blackcap Raspberry). All caneberry cultivars sold commercially are to be included.

611-010-0010

Assessments

- (1) Any first purchaser shall deduct and withhold an assessment of 1 percent of the gross value of the raw product of the berries delivered to a processor before any deductions from the price paid to the producer thereof, after July 6, 1987, for all caneberries grown in Oregon. (See definition of "First Purchaser".)
- (2) Any producer who sells directly to a retailer or sells directly at farmers' markets or farmstands is obligated to pay the assessment.
- (3) All casual sales of caneberries shall be exempt from the assessment. (See definition of "Casual Sale".)
- (4) An organic producer will be exempt from assessment if the producer presents the following information to the commission by December 15th of each year:
 - (a) Either:

(A) A current certificate from a certifying agent under the Organic Foods Production Act, 7 U.S.C. § 6501-6522 and its implementing regulations; or

(B) A statement of exemption from certification under the Organic Foods Production Act, 7 U.S.C. § 6501-6522 and its implementing regulations; and

(b) A production report signed by the producer containing the producer's name, mailing address, species of berries, and pounds and price for each species.

611-010-0015

Reports and Payments of Assessment Moneys

(1) First purchasers and handlers must submit completed and signed assessment reports on commission approved forms. Assessment reports for purchases by or deliveries to a first purchaser of caneberries during the period of November 30th through August 31st shall be postmarked on or before October 15th. Assessment reports for all purchases by or deliveries to a first purchaser of caneberries from September 1st through November 29th, shall be postmarked on or before December 15th.

(2) When a first purchaser or handler has completed, signed and forwarded a report covering his final purchase of caneberries for the crop season, he may mark such report in large letters "Final Report For This Crop Season." No further reports are necessary by such first purchaser unless or until additional purchases are made.

(3) When a first purchaser lives or has his office in another state, or is a federal or governmental agency, the producer shall report to this Commission all sales made to such purchaser as required by section (1) of this rule and shall pay the assessment directly to the Commission, unless such first purchaser voluntarily makes the proper deduction and remits the proceeds to this Commission.

(4) At the time that reports are due the Commission from the first purchaser or first handler, as required in section (1) of this rule, the first purchaser or first handler shall attach or forward payment to the Commission for the assessment due as set forth in each such report. The forms shall be signed by the first purchaser or first handler and completely filled out, and shall include, in addition to all other required information and figures, the name and complete mailing address of each producer, species of berries, total dollars paid, and 1% of dollar (\$) value.

(5) Any producer who performs the handling or processing functions on all or part of his production of the commodity, which normally would be performed by another person as the first purchaser thereof, shall report his sales of such commodity of his own production on forms provided by, and pay the assessment moneys directly to the Commission, unless the first purchaser from such producer voluntarily makes proper deduction and remits the proceeds to the Commission. Examples would be the sale by a producer direct to a peddler, to a retail store, etc.

611-010-0020

Penalties

Penalty for delaying transmittal of assessment moneys (ORS 576.355): "In addition to the penalties prescribed in ORS 576.991, any first purchaser or other person who delays transmittal of funds beyond the time set by the Commission shall pay ten percent of the amount due for the first month of delay and one and one-half percent of the amount due for each month of delay thereafter."

611-010-0025

Effective Dates of Assessment

The assessment to be withheld and paid by a first purchaser or handler, as required by ORS Chapter 576 and OAR 611-010-0010(1), or the reports required under 611-010-0015, applies to and covers any purchase by him or delivery on or after July 6, 1987, of caneberries grown in Oregon.