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DIVISION 1

PROCEDURAL RULES

670-001-0000

Procedure for Notice of Intended Rulemaking

Before adopting, amending or repealing any permanent rule, the Oregon Blueberry Commission will give notice of the intended action:

(1) By causing the notice to be published in the Secretary of State's Bulletin, referred to in ORS 183-360, at least 21 days before the effective date of the rule;

(2) By mailing a copy of the notice to persons on the Oregon Blueberry Commission's mailing list established pursuant to ORS 183.335(7) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(14) at least 49 days before the effective date of the rule; and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) Associations with an interest in a commission's rulemaking and publications whose readers have an interest in commission's activities, and

(c) Newspapers in primary production regions of the commodities represented by the commission.

Stat. Auth.: ORS 576.305

Stats. Implemented: ORS 183.335 & ORS 183.341(4)

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86; OBC 1-1995, f. & cert. ef. 3-21-95; Renumbered from 670-10-030; OBC 1-2001, f. & cert. ef. 3-21-01

DIVISION 10

**REPORTING AND PAYMENT OF ASSESSMENTS DUE
THE OREGON BLUEBERRY COMMISSION**

670-010-0005

Definitions

(1) "Person" means any individual, corporation, association, partnership or joint stock company.

(2) "Commission" means the Oregon Blueberry Commission.

(3) "First Purchaser" means any person who buys blueberries from the producer in the first instance, or handler who receives the blueberries in the first instance from the producer for resale or processing.

(4) "Producer" means a person or other legal entity producing blueberries in Oregon, for market, whether as a landowners, landlord, tenant, sharecropper or otherwise.

(5) "Handler" means any producer, processor, distributor or other person engaged in handling or marketing of or dealing in blueberries, whether as owner, agent, employee, broker or otherwise.

(6) "Blueberries" means blueberries that belong to the genus *Vaccinium* (including but not limited to the cultivars "high bush", "rabbiteye" and "low-bush" or "wild") grown commercially in the

State of Oregon. All blueberry cultivars sold commercially for whatever purpose are subject to these rules .

(7) "Casual Sales" means any sales of blueberries made by the producer directly to the consumer where the total accumulated sales during the fiscal year are not more than 500 pounds.

(8) "Reporting Year" means a calendar year beginning May 1 and ending April 30.

(9) "Limit Period" means the most recent complete three reporting years used by the commission to determine the industry average unit price.

(10) "Assessment Period" means the current reporting year, plus the previous two reporting years.

Stat. Auth.: ORS 576.305 - ORS 576.325(1)(c)

Stats. Implemented: ORS 576.325

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-8; OBC 1-1994, f. & cert. ef. 5-17-94; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0006

Industry Average Unit Price

(1) As required by OAR 603-043-0030 the commission will adopt an industry average unit price by May 14 of each year.

(2) The industry average unit price for the previous reporting year will be obtained from the Oregon Agricultural Statistics, Berry Crop Report published in January of each year from the Price (All) category for Oregon blueberries for the previous calendar year.

(3) Using a weighted average, the commission will add the Value of Utilized Production for the three years of the assessment period and the Utilized Production (Total) from the three years of the assessment, divide the sum of the Value of Utilized Production by the sum of the Utilized Production (Total) to equal the industry average unit price for the limit period. The figures for the Value of Utilized Production and the Utilized Production (Total) will be obtained from the Oregon Agricultural Statistics Berry Crop Report.

(4) A "weighted average" for the producer will be determined by dividing the total sum of the amount received each reporting year for the last three years by the total sum of the pay weight each reporting year for the last three years.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576

Hist.: OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0010

Assessments

(1) Any producer, handler or first purchaser shall deduct and withhold an assessment of four-tenths of a cent (\$.004) per pound or \$8 per ton after June 1, 2001 for all blueberries grown in Oregon. (See definition of "First Purchaser.")

(2) The maximum assessment for a reporting year (670-010-0005(8)) will be determined by multiplying the industry average unit price (670-010-0006) for the limit period (670-010-0005(9)) by 1.5%.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576.325 & ORS 576.335

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86; OBC 1-1990, f. 5-23-90 & cert. ef. 6-1-90; OBC 2-2001, f. 5-8-01, cert. ef. 6-1-01; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0011

Challenge Process

(1) Pursuant to ORS 576.370 and OAR 603-043-0040, a producer may file a challenge by obtaining a Commission Assessment Challenge Form from the commission. The producer must file the completed Challenge Form with a US Postmark dated no later than 60 days from April 30th of each year.

(2) In calculating whether a producer has paid an assessment that exceeds one and one-half percent of the total dollar amount received by the producer for the raw commodity during the assessment period the, the producer must use the assessment period as defined by 670-010-0005(10).

(3) Pursuant to OAR 603-043-0050, all prices for any method of selling the commodity reported on the Commission Assessment Challenge Form must be the same term(s) that the commission uses to calculate the industry average unit price and the assessment rate.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576
Hist.: OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0015

Reports and Payments of Assessment Moneys

(1) The reporting period to the Commission is annually with the assessment report and payment postmarked on or before November 30th of each reporting year.

(2) First purchasers must include the producer's name, full address, total pounds, and assessment collected for all purchases by or deliveries received during the reporting year on the assessment report. The first purchasers must sign each assessment report to certify the information provided.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325, ORS 576.335 & ORS 576.345
Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86; OBC 1-2001, f. & cert. ef. 3-21-01; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0020

Penalties

Penalty for delaying transmittal of assessment moneys (ORS 576.355) **"In addition to the penalties prescribed in ORS 576.371, any first purchaser or other person who delays transmittal of funds beyond the time set by the Commission shall pay five percent of the amount due for the first month of delay and one percent of the amount due for each month of delay thereafter."**

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325 & ORS 576.355
Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86

670-010-0025

Effective Date of Assessment

The assessment to be withheld and paid by a producer, first purchaser or handler, as required by ORS Chapter 576 and subsection (1) of Section 2, or reports required under Section 3, applies to and covers any sales, purchases or delivery on or after June 1, 1986, of blueberries grown in Oregon.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325 & ORS 576.335
Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86