

CIAB News

Information from the Cherry Industry Administrative Board

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The Crop Is Good and Sales are Strong

THE 2014 SALES CONTINUED LAST YEAR'S RESURGENCE.

The good news from last year is the continued upward trend in sales following last year and the very short crop from 2014. Sales in 2014 were 235 million pounds calculated as follows using the CIAB's formulation:

Inventory Beginning of Year	81
Pack	295
- Total Inventory, End of Year	<u>141</u>
Total Sales 2014	235

The sales in 2014 represent a 5.8% increase over the 222 million pounds sold in 2013.

CROP ESTIMATES FOR 2015 - A GOOD QUALITY, FAIR SIZED CROP IS ANTICIPATED

Crop Year 2015 presents some unique elements as does every crop of tart cherries. Early in the Spring in the mid-West it appeared that there would be a very large crop. However, freeze events in May substantially shortened the estimate of the crops in various districts. In the West, Spring came very early and, fortunately, the West did not have freezes like those in the mid-West. WA and OR are having one of their earliest crops of tart cherries ever. PA had a good Spring and expecting a very large crop for them.

The crop for 2015 is estimated to be smaller than average. Crop estimates for the year were presented at the MFFPA Guesstimate June 24, 2015 and at the CIAB meeting the following day. The numbers and details from these estimates are posted in the table below.

The NASS, USDA estimate is the default one for use for the OSF. Thus, it is the starting point for any discussion of crop size. The NASS presented its crop estimate for 2015 as it has done in many years. The members of the CIAB also shared their estimates of the crop which is also presented in the table below.

As you will see in the table below, the crop estimates were all relatively close to each other. The NASS estimate was for 230.5 million pounds while the MFFPA estimate was for 222.6 million pounds. The

CIAB members' estimates totaled 233.3 million pounds. The CIAB elected to use the CIAB estimate in the OSF.

The estimates presented at the meetings were:

Crop Estimates & 3 Yr. Average Production

District	MFFPA	USDA	CIAB	3 Yr. Avg.
NW MI	86.0	74.0	83.0	87.7
WC MI	33.0	32.0	33.0	37.6
SW MI	27.5	28.0	30.0	16.1
NY	10.0	8.2	10.0	7.6
OR	1.5	2.8	1.5	2.6
PA	3.5	3.2	3.5	2.0
UT	35.0	40.0	38.0	38.8
WA	25.0	25.0	25.0	22.3
WI	<u>9.0</u>	<u>9.4</u>	<u>9.3</u>	<u>8.0</u>
Total Crop	230.5	222.6	233.3	222.7
Unrestricted	<u>5.0</u>	<u>6.0</u>	<u>5.0</u>	<u>4.6</u>
Restricted	225.5	216.6	228.3	218.1

The districts not subject to restriction in 2015 are OR and PA. These two areas are unrestricted due to their small volume of production. There are no other exempt districts in 2015.

Harvest Dates

From the information shared at the Guesstimate and the CIAB meeting, harvest has already started in OR, PA and WA. SW MI should begin around July 7. WC MI and NW MI will follow in due course. WI has been a bit cooler and expects its harvest to start later.

CARRY-IN INVENTORIES FROM 2014

Another element in the calculations under the OSF is the amount of inventory carried into the current year from the prior year.

The products held by handlers at the conclusion of May 2014 were:

	Millions	Per cent
Frozen		
General Use	53.6	38.0%
Drying Stock	<u>47.2</u>	<u>33.4%</u>
ST:	100.7	71.4%
Waterpack	3.4	2.4%
Piefill	11.5	8.2%
Puree	0.4	0.3%
Juice	20.7	14.7%
Dried	1.7	1.2%
Other	<u>2.7</u>	<u>1.9%</u>
ST:	40.3	28.6%
Grand Total:	<u>141.0</u>	

The inventory reserves are made up of two parts - the free portion and the restricted portion. The free portion is included in the OSF while the restricted portion remains in the primary reserves. The break down of the inventory is:

	Pound	Perce
Free	104	73.8%
Restricted	<u>37</u>	26.3%
Total	<u>141</u>	

The carried over inventory is larger by 60 million pounds than what was seen in 2014. However, the fact that there was reserve inventory from 2014 carried into 2015 helped to increase the total inventory quite a bit. The free inventory was about 23 million pounds more in 2015 than in 2014.

THE OPTIMUM SUPPLY FORMULA AND CALCULATION OF RESTRICTION

Putting the items discussed above with other elements of the industry's data allows the CIAB to review the situation and to determine if a restriction is likely under the OSF.

The basic idea of the OSF is to compare supply and demand. When the current supply, i.e. the current crop + the carry-in, exceeds the projected demand in the domestic market, a crop restriction is required. When the supply is less than the demand in the "free" market, no restriction is required.

Production in excess of the "free" market volume is "restricted" and must either be held in reserve inventory or sold into "secondary" markets. Secondary markets include export sales and new market development projects.

There are a number of items that must be established before the percentages can be determined.

Demand - 3 Year Average

In the OSF the supply (carry-over + production) cherries is compared to the demand for tart cherries. "Demand" is defined as the average of "free" sales over the past three seasons.

"Free" sales are those sales made into the domestic markets. They are the difference between total sales and sales through "secondary" or restricted market outlets. Under the revised calculation process, export sales activities are subtracted from the gross sales to calculate each year's volume of "free" sales.

The average and adjusted free sales, posted in millions of pounds, is:

	Gross	Exports	Free Sales
2012	123	0	123
2013	222	0	222
2014	<u>235</u>	<u>14</u>	<u>221</u>
3 Yr Avg.	<u>193</u>	<u>5</u>	188
Adjustment to promote sales			<u>43</u>
Adjusted Demand for OSF			231

The CIAB was again concerned with recapturing sales lost following 2012 crop failure. The sales in 2014 of 235.4 million pounds was a good step towards attaining the pre-2012 sales. It was also a good step beyond the sales in 2013. However, the 2014/15 sales did not reach the intended goal of around 266 million pounds of gross sales or 250 million pounds of free sales that the industry had experienced prior to the 2012 crop failure. The tonnage of the free cherries that was not sold ended up as free carry-in for 2015/16.

The CIAB still seeks to attain the target of 250 million pounds of "free" sales experienced prior to 2012. Towards that end, this year the CIAB adjusted the 3 year average of free sales by 43 million pounds in the OSF for crop year 2015/16. This adjustment increased the "demand" calculated in the OSF from what it otherwise would have been thereby, decreasing the calculated restriction.

Preliminary Restriction Percentage

Shown below is the result of the OSF for the 2015 given the crop estimates made at the meeting.

**OSF
Crop Year 2015/16
Using the Crop Forecast
(1,000,000's of Pounds)**

Estimated in-orchard diversions		0
SUPPLY		
Restricted	228.3	
+ Unrestricted	<u>5.0</u>	
ST, Processed Prod.:	233.3	
+ Carry-in	104.0	
Orchard Diversions	<u>0.0</u>	
ST, Supply:		337.3
DEMANDD		
3-Year Avg. Sales	- 188.	
MGF	19.0	
Adj. to sales	43.0	
Other factors		
Carry-out, default	20.0	
Carry-out, adjustment	<u>35.0</u>	
		<u>305.0</u>
SURPLUS / (SHORTFALL)		32
RESTRICTED and FREE % and Pounds		
FREE %		86%
Free Pounds		196
Restricted %		14%
Restricted Pounds		32

Carry-out and adjustment for it

In the OSF set out above there is a “Carry-out” adjustment of 35 million pounds. “Carry-out” is the amount of cherries planned as free inventory at the beginning of next season, 2016/17. This adjustment and the default of 20 million pounds for the target carry-out results in a total planned carry-out of 55 million pounds of inventory from 2015/16 into 2016/17.

The larger the planned carry-out from one year to the next, the smaller will be the restriction on the current year. Thus, the 35 million pound adjustment to carry-out reduced the projected restriction for the this year.

Bottom Line Credits

If growers do undertake orchard diversions, these are considered “bottom line” diversion credits for handlers. The types of diversion credits are treated like handler diversion credits and are used by handlers pound-for-pound against restriction obligations. However, if they do happen, they are included in the OSF. It was felt, however, that there would be relatively little in-orchard diversion activity so there was no posted entry for them in the OSF.

OSF Percentages in 2015/16

Using the crop estimates shared at the meeting, the OSF resulted in a calculated preliminary free percentage of 86% restriction of 14%. As is always the case, the final percentages will be determined in September based on actual production.

We all know that the crop will not match the estimate. Should the crop picks long of the estimate, the restriction percentage will increase. If the crop picks short of the estimate, the restriction will get decrease. If the crop is shorter by 32 million pounds, the preliminary restriction will be eliminated.

The CIAB’s determination under the OSF preserves harvest time options for growers and handlers. Growers will be able to do in-orchard diversions and earn diversion credits. Similarly, handlers will be able to undertake at-plant diversions during the harvest and earn diversion credits for them, as well.

Growers and handlers should keep in mind this year’s crop size and situation in deciding whether or not to divert cherries. The projected crop is not terribly large so handlers may be interested in taking the cherries that are available, if possible.

Please make any orchard diversion decisions carefully. Growers are urged to consult with their handlers before deciding to divert their fruit in the orchards. The CIAB is, of course, prepared to help with the diversion process if any grower decides to do so.

HORNE RAISIN CASE AND THE CIAB

You may have heard that the US Supreme Court decided in the Horne case that the Raisin Administrative Committee’s (RAC) reserve program was a “taking” of the Hornes’ raisins as that term is defined in the Fifth Amendment of the US Constitution. The reserve program of the RAC was determined to operate improperly. Although this is the case for the RAC, it is certainly not clear that the Horne decision applies to or controls the CIAB’s operations.

The RAC’s reserve program is/was an arrangement where title to and ownership of the surplus raisins was transferred from raisin growers to the RAC. The RAC sold or otherwise disposed of the surplus raisins in various markets and outlets, deducted expenses from the proceeds of the sale and returned the net amount, if any, from the sale back to the growers. The Supreme Court determined that this arrangement, one which involved the transfer of title to and ownership of the raisins by the RAC, the sale of the surplus raisins by the RAC and the deducting of administrative expenses from the proceeds of the sale, was a “taking” of the Horne’s property by the government subject to the Fifth Amendment. This, in turn, required that there must

be “just compensation” to the Hornes for such a “taking”.

The reserve program under the CIAB operates very differently from the reserve program of the RAC. Under the CIAB reserve program, the title to, the ownership of and the disposition of the surplus cherries always remains with the handler that processed the cherries. In the CIAB reserve program, the CIAB never takes possession of, owns or has title to these surplus cherries. The CIAB certainly does not have the authority to sell surplus cherries. While surplus cherries must be kept from the “free” market under the CIAB’s surplus program, handlers always have control over and exercise the options for use of the surplus cherries. The surplus cherries may be held as inventory reserves. (This is the default position.) Handlers may sell surplus cherries through secondary market activities such as export markets or through the new product / new market diversion programs at whatever price handlers can secure. The surplus cherries can be given as charitable contributions. The key aspect here is that handlers, rather than the CIAB, own and determine how they will deal with surplus production and the reserve cherries.

This distinction between the CIAB and the RAC’s reserve programs is very important. The Horne case spoke in terms of the transfer of ownership and of title of the surplus raisins to the RAC. It spoke in terms of the sale of these reserves by the RAC rather than by the grower or handler. Given the differences in the two surplus and reserve programs, it certainly is not established that the decision in the Horne case applies to the CIAB reserve program. It is premature to conclude that the CIAB reserve program is a “taking” of surplus cherries. Any determination about the CIAB’s program will have to come at a later date and in a different case. In the meantime, the CIAB will continue to operate as it has in past years.

BURNETTE FOODS, INC. 15 A PETITION DISMISSED

On Thursday, June 25, 2015 the Judicial Officer for the USDA ruled on the appeal of the Burnette Foods’ 15A suit challenging the order and its operation. In his ruling the JO determined a number of things including (1) that the CIAB was properly formulated, (2) that the CIAB operated as it should, (3) that CherrCo, Inc. is not a “sales constituency” as that term is defined in the order and (4) that canners of tart cherry are subject to the operation of the marketing order in the same fashion as are all other handlers of tart cherries.

The hearing officer dismissed Burnette Foods’ case. Burnette Foods has the right to challenge the ruling through the US District Court if it chooses to do so.

CALENDAR OF EVENTS - JULY TO SEPTEMBER

- July 6, 13, 23, 27 - Form #1 Weekly Raw Product
- July 10 Form #3 Sales and Inventory Report
(for the period ending June 30)
- July 10 Export and market Expansion
Documentation June 1 through June 25
- July 15 Export and market Expansion
Documentation June 26 through June 30
- Aug. 3, 10, 17, 24 - Form #1 Weekly Raw Product
- Sept. 1 Form 2 Cherries acquired from Producers
- Sept. 10 CIAB meeting, Sturgeon Bay, WI
- Oct. 1 Form 4 Handler Reserve Plan and Final
Pack Report
Form 5 A Inventory Reserve Summary
Form 5 B Inventory Locations Report