
CIAB News

Information from the Cherry Industry Administrative Board

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Two Major Accomplishments in November

Two significant things occurred in November that will alter how growers and handlers deal with the marketing order and with restrictions in the order. First, the CIAB has recommended changes to the OSF that will decrease the amount of restriction considerably. Second, the USDA has published the proposed rule about how to account for grower diversions.

Each of these changes will make significant changes to the operation of the order and to how growers and handlers deal with the restriction process. Together they will have a dramatic impact on the industry.

Bottom Line Credits for Orchard Diversions

Last Spring people in the industry testified in support of an amendment to the order to change the way grower in-orchard diversion credits are to be used in the industry. The USDA has just announced that it will move forward with the industry's recommendation.

What Bottom Line Credits are and how they Change the Treatment of Grower Credits

"Bottom Line Credits" is the description that emerged for the industry's proposed about how to treat and account for in-orchard diversions. The "bottom line credit" idea makes grower diversions like handler post harvest diversion certificates and makes them a one-for-one credit against the handlers' restriction obligations.

The Difficulty with Orchard Diversion Credits in the Present System

If you will recall, under the current system of the marketing order, a handler that accepts in-orchard diversion certificates must treat the diverted cherries as part of its "handle". The handler then must apply the restriction percentage to these "cherries" even though it never received them and did not process them.

Needless to say, this treatment of orchard diverted cherries did not make a great deal of practical sense. Everyone got confused with this process. Handlers had to apply some of the in-orchard certificates against the increased restriction caused by receiving the credits. They had to keep this in mind when accepting grower credits.

Growers have to factor this into their decisions about diverting. They have to "gross up" their diversions to make sure that they deliver enough certificates to their handler. If growers failed to account for this adjustment, they could fall short of their obligations to the handlers.

The present way of treating grower diversions is also counter productive. It acts as a disincentive rather than an incentive for diversions as the crop size increases. As the crops get larger and the restriction percentage increases, the system should encourage more in-orchard diversion activities. But, because of the way that handlers have to account for the in-orchard credits and apply restriction to them, the incentive to accept in-orchard diversion decreases as the crop increases. The handler has to apply an ever increasing number of the in-orchard credits to the restriction imposed on them. At some point in this process, the handler will decide that it is pointless to accept any more in-orchard diversion credits.

Finally, and as importantly, handlers and growers never can be sure of the worth of grower diversion certificates. The restriction percentages are estimated in June and finalized in September under the order. Under this arrangement neither growers nor handlers can ever predict what the restriction will be and what will be the compliance value of grower diverted cherries. If restriction increases between June and September, the grower certificates reduce in compliance worth as compliance tools; if the restriction decreases from June to September, the grower certificates increase in worth as compliance tools. This uncertainty also flows from the fact that grower certificates are included in "handle".

How Bottom Line Credits Work and How They Change to System

With "bottom line credits" for grower diversions, the way to account for grower diversions will be simplified. The disincentive for grower diversions will be eliminated. Growers and handlers will not need to be concerned about changing crop size and percentages between June and September.

The order is being redefined to say that the cherries diverted in the orchard are no longer considered part of the "handle" for which a handler is responsible and to which restriction is applied. "Handle" will only be the cherries delivered to and processed by the handler. Only the cherries delivered to and processed by the handler will be subject to the restriction percentage calculated under the OSF.

Grower in-orchard diversion certificates will be used by the handlers as bottom line, pound-for-pound reductions to their restricted cherries in the very same way that post harvest diversions such as export or market expansion are now used by handlers.

Because grower certificates will not be included in the handle of the processor that receives them, the problems mentioned above will no longer be around. Growers will not have to “gross up” their diversions to deliver the right amount of diversion credits. Handlers will know that any grower credits they accept will have a fixed worth as a compliance tool. The disincentive for orchard diversions that is present in the order today will be eliminated. The worth of grower certificates as compliance options will increase, and, therefore, their value will be increased. Grower diversions and post-harvest diversions will now be the same in all regards.

Steps in the Amendment for Bottom Line Credits

The publication of the proposed rule is an important one in getting the amendment done by next year’s harvest. Comments on the proposed rule can be made during the next two weeks. After the comment period the USDA will consider the comments, publish its revised position and call for a vote on the proposed amendment. After the vote, the Secretary issues its final rule.

The industry is on a tight schedule to get this amendment done in a timely fashion. The vote on the amendment will probably not come until January 2012, but this should still be adequate time to have the change in place for next year.

Copy of the Proposed Rule

If you wish to get a copy of the proposed rule for “bottom line credits”, please go to www.cherryboard.org, and follow the links in the “Federal Register” heading. You will find the posting there.

Changes to the OSF Recommended by the CIAB

The CIAB met November 2, 2010 to continue its discussions about whether and how to adjust the ways in which the OSF operates. This was a continued discussion on the recommendations of the Ad Hoc Committee to Review Alternatives to Restriction (AHC) that was started at the September 2011 meeting.

Recommendations

The AHC had been charged with reviewing alternatives to the current restriction process to see if a better system for operating the OSF could be crafted. Please recall that the committee’s recommendations were:

1. “Sales”, as used in the OSF, should be the industry’s gross sales adjusted only by exports, new product activities and any special considerations that might be appropriate.
(There would be a phase out of market expansion activities over an appropriate time period so that handlers would not lose credits for programs already

- approved.)
2. USDA sales should be included in the gross sales rather than be releases from reserves.
3. The “carry-out” in the OSF should be set to 20 million pounds as the default subject to adjustment, if needed.
4. The market growth factor should be made available to handlers as early in the year as possible.
5. The Primary Reserve Pool should be increased to 100 million pounds.

CIAB Actions on the Recommendations

The board discussed these proposals in detail and at considerable length. In the end, it adopted items 2, 3 and 4 as they were presented to the board by the Committee. The CIAB also adopted item 1, but did so with a modification. Item 5 was done at the September meeting.

Item 1 was revised to include adjustment of the “sales” for purposes of the OSF by market expansion credits earned in first year of a diversion activity along with the other listed items. With this change export and market expansion activities were provided identical treatment with respect to compliance with restrictions.

What Impact will the Recommendations Have on Restriction.

The CIAB calculated the impact of the changes to restriction percent to better understand what the industry might see. The assumptions made for this analysis were:

	Million ##
Restricted crop	231
Unrestricted crop	12
Sales	236
Exports	16
Market Expansion, adjusted for maturation	7
Carry-out	20

With the assumed values listed above, the net restriction under the revised OSF calculation would be seventeen percent (17%). The equivalent percentage under the current OSF is fifty-one percent (51%) using the same inputs.

The reasons for the dramatic difference in the outcomes lies in the way accounting for activities is made. In the current version of the OSF all of the items adjust sales leaving a larger surplus and, therefore, calculating a greater restriction. (Please refer to the table on Page 3 for details of the comparison.)

There was some disagreement on the CIAB about some parts of the change, but the board voted unanimously to make the change with respect to the treatment of sales.

Summary of Impact of Recommended Changes

OSF as Currently Structured		OSF as Recommended	
Supply		Supply	
Restricted Production	231	Restricted Production	231
Unrestricted Production	12	Unrestricted Production	12
Carry-in	<u>50</u>	Carry-in	<u>50</u>
	293		293
Demand & Adjustments		Demand & Adjustments	
Gross Sales (3 Yr. Avg.)	236.0	Gross Sales (3 Yr. Avg.)	236
Market expansion, average	(35.4)	Market expansion, average	(7)
USDA, average	(25.3)	USDA, average	0
Exports, average	(16.3)	Exports, average	(16)
Sales for OSF (unadjusted)	159	Sales for OSF (unadjusted)	213
Carry-out	0	Carry-out	20
Market Growth	16	Market Growth	21
ST, Demand & Adj.:	175	ST, Demand & Adj.:	254
Surplus	118	Surplus	39
RESTRICTION	51%	RESTRICTION:	17%

Procedures to Implement the Recommended Changes

The actions adopted by the CIAB at the November meeting are intended to be available for next year if at all possible. This is why the actions were adopted at the November meeting.

These changes are recommendations to the Secretary of Agriculture to change the rules by which the CIAB operates. The Secretary will consider these recommendations through the informal, rather than formal rulemaking process as is done with amendments to the order, and, it is hoped, will complete this process in time for next season's harvest.

CONCLUSIONS

There have been a lot of positives in the industry of late. Sales in 2010 were very large and very encouraging. The changes to grower credits and to the OSF as described in this newsletter are significant ones that will change the system and will benefit both growers and handlers a great deal.

Thanks should be extended to all of those who served on the Ad Hoc Committee for their efforts to craft changes to the order that will work for all. The CIAB members are to be commended for coming to an agreement that will serve the needs of the tart cherry industry.

Calendar of Events: December - March 2012

Dec 1	Exports and market expansion activities for July 1 through Sept 30 supporting paperwork due
Dec	Request for release of Market Growth Factor due by the end of the first week of the month
Dec 6-8	Great Lakes Expo, Grand Rapids, MI
Dec 9	Form #3 Sales and Inventory Report (July through November 30)
Jan 1	Penalty imposed if assessments not received
Jan 24-25	NW MI Orchard & Vineyard Show, Grand Traverse Resort, Acme, MI
March 6	North American Tart Cherry Industry Conference IV sponsored by CherrCo, Inc., Amway Grand Hotel, Grand Rapids, MI