
CIAB News

Information from the Cherry Industry Administrative Board

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Amendment Hearings For Bottom Line Credits

Amendment Hearings for Grower Bottom Line Credits Held

The USDA conducted amendment hearings for the industry's proposal to make grower in-orchard diversions equivalent to handler post harvest diversion credits. This idea has been called "Bottom Line Credits" or "BLC" for easy reference.

The hearings were held in Grand Rapids, MI on April 21 and 22 and in Provo, UT on April 26.

Issue - The basic idea of the industry's amendment proposal was to change the order so that growers' diversions were not made less valuable as a compliance tool for handlers than are the credits handlers earn for exports, new markets and/or new products or the like. With the proposed amendment any and all diversion credits can be used pound-for-pound against their restriction obligations. Currently, growers' diversions are discounted by the amount of restriction for the year because they are first reported by handlers as part of their "handle" as required by the way the order is currently written.

Solution - The solution to this problem is to change the way handlers account for grower diversions. This can be done by removing grower diversions from the definition of "handle". By doing this, handlers will not report grower diversions as part of their handle. The cherries represented by the certificates will then not be part of the "supply" portion for the Optimum Supply Formula (OSF), and the restriction percentage will not apply to them.

Handlers still get to use the grower certificates as part of their compliance with any restriction for the year. Since the grower diversions were not part of the supply and not subject to restriction, handlers get full value for them as a compliance tool.

Who Testified and the Points They Raised

Both growers and handlers testified at the hearings in support of the proposed amendment. In fact, no one testified in opposition to the amendment.

Some of the points mentioned to support the idea of Bottom Line Credits were:

- It would make grower credits and handler post harvest credits of equal worth as compliance tools.
- It would remove the disincentive for in-orchard diversions that presently exists in the order by ending the discounting of grower diversion credits in the hands of the processor.
- The change would make compliance with the restriction much simpler for both growers and handlers.
- Handlers could more effectively plan for compliance with restriction requirements for the year.
- Grower returns should increase.
 - Growers would have reduced costs and expenses for those cherries left in the orchard.
 - Grower prices should increase both for diversion credits earned and the cherries delivered over what prices would be if all of the cherries were processed.
- The proposal will decrease the amount of cherries packed, especially in those years with large crops. This should lessen inventories held by handlers. The reduced inventories, in turn, should lessen the downward pressure on grower prices from what would otherwise happen. The change to the treatment of grower diversions would make the system work like it was originally intended to operate.
- The proposal would make the operation of the order fairer for all.

The Next Steps in the Amendment Process

The hearings are just the first stage for changing the marketing order. Legal briefs must now be written and submitted to the Secretary. After the briefs are read by the USDA, representatives of the USDA will prepare what is called a "Recommended Decision" (RD). This RD is then published by the USDA and comments are solicited, received and considered by the USDA. Once all of these steps are completed, the Secretary will give the industry the opportunity to vote

on the amendment.

There is a lot to this process even though it does not take long to mention the steps. We were assured by representatives of the USDA that these steps would be completed in time for the 2012 crop year, and we fully expect this to be completed on time.

The Upcoming Crop, Crop Year 2011

While we were concentrating on getting the amendment hearings completed, Mother Nature has been working on our next harvest. It appears that Crop Year 2011 is setting up to possibly be another large crop for the industry.

The Winter and Spring have been quite generous to most of the production areas. Except for Washington, there does not seem to be much Winter damage to the production areas. The Spring has been relatively mild in almost all of the producing areas, as well. We seem to have reached the last frost dates without having major killing frosts. All of this suggests quite a large crop.

On a recent telephone conference call the various states and districts reported:

MI - Each of the three districts indicated that they have had good weather throughout the Spring and have not had any major frost events. All expect to produce quite large crops similar to or greater than that of 2009.

NY - The weather in NY has also been conducive to a good crop. Growers had a good bloom. The potential size of the crop is difficult to predict since there are new orchards coming into maturity, and their production is difficult to measure.

OR - Oregon has had a cold and delayed Spring. It seems that harvest will be later than normal, but the crop should be good.

PA - Pennsylvania has had a good Spring. They have not had any adverse weather events so their crop should be good.

UT - Representatives of UT are expecting a large crop reminiscent of 2009 or larger. UT has had some cold weather events this Spring, but the bud set and bloom were good.

WA - Growers in WA were concerned with their potential crop. WA has had some severe weather events both last Fall and this Spring. They are expecting a smaller crop than harvested in 2009.

WI - The situation in WI is more delayed than in the other regions. However, WI has not had any severe events this Spring to significantly reduce the crop.

In each of the areas it was noted that crop size will be affected by the pollinating conditions and the weather in the later Spring and Summer.

How to deal with the 2011 Crop - A petition to the USDA to have BLC's for the 2011 Crop

Given the concern for the potentially large crop and the large restrictions that go with it, there is significant concern for dealing with the upcoming crop. Bottom Line Credits would certainly be appropriate for this crop.

During the amendment hearings, it was emphasized by many that it is in the years with large crops that Bottom Line Credits are most important, will be most beneficial and will be most used. Unfortunately, because of timelines and legal processes, BLC's simply cannot be accomplished in time for the upcoming harvest.

After realizing the potential size of the 2011 crop and after assessing the likely impacts this will present to the industry, the CIAB determined that Bottom Line Credits were absolutely necessary for the current year. On May 11, 2011, Mr. Tom Facer, Chairman, Mr. Ray Rowley, Chair, Diversion Committee, and Mr. Perry Hedin, Executive Director, met with Mr. David Shipman, Deputy Administrator, AMS, USDA, Mr. Bob Keeney, Mr. Mike Durando and Mr. Bruce Summers to petition the USDA to allow Bottom Line Credits to be available to growers and handlers for the 2011 crop year.

The rationale for this petition was that the 2011 crop could be as large as or larger than the harvest in 2009, and the industry needed to have BLC's available to it to effectively deal with the crop. Without this tool, all of the negative consequences of the order that apply to in-orchard diversions and that are to be corrected with the amendment would remain in place for 2011. All of the negative outcomes that result from this, such as the disincentive for orchard diversions, the excess inventories that will occur and the lower prices, would remain in place. It made little sense to continue with the old model in the face of a large crop and the impending change to the order.

The industry's representatives proposed that the Secretary suspend, for the upcoming year, those clauses in the order that create the problem. With the suspension of these clauses, the OSF would function for the current year just as it will when the amendments are implemented. With this change, Bottom Line Credits would be in place and available to growers this year.

USDA's Response

Mr. Shipman took the industry's request under advisement for discussion and consideration. The

USDA had some concerns about both the substance of the request and of their ability to get it accomplished in time for harvest for the year.

On Friday, May 13, 2011 Mr. Shipman informed the CIAB that it could proceed with its request for suspension. He asked that the CIAB take a formal vote on the idea and follow this with a formal submission of the proposal to the USDA.

The CIAB held an emergency meeting on May 17, 2011 to adopt the proposition of suspending language of the order so that Bottom Line Credits would be available for the upcoming crop year, Crop Year 2011. The motion passed with 17 affirmative votes and 1 abstention.

The proposal was adopted as an “emergency measure” so that concept could be effective as soon as published by the USDA. It is intended and hoped that it will be completed by the beginning of harvest.

The CIAB will let you know when and if the USDA acts on this recommendation prior to the upcoming harvest.

Random Row Diversions Eliminated as a Grower Diversion option

At the March meeting the CIAB considered and discussed Random Row Diversions and whether or not to keep this as an option for grower diversions.

The Compliance Committee had given much consideration to this matter before presenting it to the CIAB for action. There are a number of problems that derive from the random row option. Amongst these concerns are:

- it is impossible for the CIAB to confirm that all of a grower’s orchards are mapped;
- a grower’s maps are often in error or are incomplete;
- the volume of delivered cherries on which the calculations are based could be misstated or manipulated;
- the random row diversion process has a great deal of potential for error in mapping, flagging and/or harvesting;
- the penalties for making a mistake are very hefty compared to the other options;
- the option is used by few growers, but most of the problems with diversion derive from mistakes made using this option;
- with Bottom Line Credits and the increased impact of grower diversions as compliance tools, there is a need for a more secure and accurate process; random row diversions do not fit with this need.

The CIAB voted unanimously to eliminate Random Row diversions as an option for grower in-orchard diversions. This, too, was done so that it would become effective with Bottom Line Credits. While it was originally thought that this would be for the 2012 crop year, it will be effective with the 2011 crop year in the event that the suspension goes into effect this upcoming season.

The CIAB will let you know when and if the USDA acts on this recommendation prior to the upcoming harvest.

Grower Meeting Dates

The grower meetings in Michigan following the June meeting are set for:

<u>Place</u>	<u>Date</u>	<u>Time</u>
SWMRC Benton Harbor, MI,	6/24/11	4:30 PM
Oceana ISD, Hart, MI	6/27/11	8:30 PM
Peninsula Township Hall	6/28/11	9:00 AM
Milton Township Hall	6/28/11	1:00 PM
NWMHRS	6/28/11	7:00 PM

The CIAB will, of course, be happy to meet with growers to discuss diversions at the request of those in the other districts, as well.

Calendar of Events: January to June

<u>Date</u>	<u>Event</u>
June 1	Exports and market expansion activities for January 1 through March 31 with supporting paperwork
June 10	Form 3, Sales Report, due through end of May with June Estimates of Sale
June 23	Processor Guesstimate DeVos Place, Grd. Rapids, MI
June 24	CIAB Meeting, DeVos Place, Grand Rapids, MI