

## Agricultural Marketing Service, USDA

## § 930.133

1997 crop year, issue diversion certificates to growers, in districts subject to volume regulation (Northwest Michigan, Central Michigan, New York, and Utah) who have voluntarily elected to divert in the orchard all or a portion of their 1997 tart cherry production which otherwise, upon delivery to handlers, would become restricted percentage cherries. Growers may offer the diversion certificate to handlers in lieu of delivering cherries.

(b) *Terms and conditions.* To be eligible to receive diversion credit, growers voluntarily choosing to divert cherries must meet the following terms and conditions:

(1) In order to receive a certificate, a grower must demonstrate, to the satisfaction of the Board, that rows or trees which were selected for diversion were not harvested. Trees six years old or younger do not qualify for diversion.

(2) The grower must furnish the Board with a total harvested production amount so the Board can calculate the amount of grower diversion tonnage to be placed on the diversion certificate. The Board will confirm the grower's production amount with information provided by handlers (to which the grower delivers cherries) on Board Form Number Two.

(3) The grower must agree to allow a Board compliance officer to visit the grower's orchard to confirm that diversion has actually taken place.

(c) *Calculation of diversion amounts.* The weight of cherries diverted and left unharvested shall be calculated by the Board after growers furnish the Board with the necessary information concerning their production. After verification of the volume of cherries diverted, the Board shall calculate the amounts of grower diversion tonnage to be placed on the diversion certificates and issue such certificates to growers. Such amounts shall be determined as follows:

(1) For whole block diversion, the weight of a harvested sample of 5 percent of each diverted block, provided by the grower, will be used to calculate the total volume of diverted cherries to be credited on the diversion certificate. For example, a grower farms 1,000 acres and elects to whole block divert a 200 acre block. If 5 percent of the harvested

trees in the block diverted yield 80,000 pounds of cherries, the grower would receive a diversion certificate for 1,600,000 pounds (80,000 pounds divided by 5 percent (.05) yields 1,600,000 pounds). The rest of the block would remain unharvested.

(2) For random row diversion, such estimated volume would be calculated by applying the percentage of the grower's production diverted to the actual average volume per acre of cherries produced and harvested. For example, a grower farms 1,000 acres and elects to divert 20 percent of the harvestable acreage (200 acres). The grower harvests the remaining 800 acres and obtains 6,400,000 pounds of cherries, which represents a yield per acre of 8,000 pounds. Such grower would receive a diversion certificate for 1,600,000 pounds of cherries (8,000 lbs multiplied by the 20 percent of the total acreage diverted; in this instance, 200 acres).

[62 FR 44883, Aug. 25, 1997, as amended at 63 FR 20023, Apr. 22, 1998]

### § 930.120 Board membership.

When the production level from a district falls below the thresholds stated in § 930.20(b)(5), members of the specific district will make a recommendation to the Board as to who should be removed from the Board and the Board shall submit a recommendation to the Secretary for approval. If the recommendation is not made by the Board within a reasonable time, the Secretary may select the member and alternate to be removed.

[71 FR 16985, Apr. 5, 2006]

## Subpart—Administrative Rules and Regulations

### § 930.133 Compensation rate.

A compensation rate of \$250 per meeting shall be paid to the public member and to the alternate public member when attending Board meetings. Such compensation is a per meeting rate. For example, if a Board meeting is convened and lasts one or two days or only four hours, the public