

At its August 29, 2002, meeting, the Board adjusted the NASS crop estimate up to 19,887 tons by deducting the average crop disappearance over the preceding three years (5.23 percent) and adding the undeclared carryin (2,828 tons) to the 18,000 ton production estimate. Disappearance is the difference between orchard-run production (crop estimate) and the available supply of merchantable product available for sale by handlers. Disappearance consists of (1) unharvested hazelnuts, (2) culled product (nuts that are delivered to handlers but later discarded), or (3) product used on the farm, sold locally, or otherwise disposed of by producers. The Board computed the adjusted inshell trade demand of 3,133 tons by taking the difference between the average of the past three years' sales (3,563 tons) and the declared carry-in from last year's crop (430 tons).

The Board computed and announced preliminary free and restricted percentages of 12.6012 percent and 87.3988 percent, respectively, at its August 29, 2002, meeting. The Board computed the preliminary free percentage by multiplying the adjusted

trade demand by 80 percent and dividing the result by the adjusted crop estimate (3,133 tons  $\times$  80 percent/19,887 tons = 12.6012 percent.) The preliminary free percentage thus initially released 2,506 tons of hazelnuts from the 2002 supply for domestic inshell use, and the preliminary restricted percentage withheld 17,381 tons for the export and shelled (kernel) markets.

Under the order, the Board must meet again on or before November 15 to recommend interim final and final percentages. The Board uses current crop estimates to calculate interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season (*i.e.*, desirable carryout). The order requires that the final free and restricted percentages shall be effective 30 days

prior to the end of the marketing year, or earlier, if recommended by the Board and approved by USDA. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 15, 2002, and reviewed and approved an amended marketing policy and recommended the establishment of final free and restricted percentages. The Board decided that market conditions were such that immediate release of an additional 15 percent for desirable carryout would not adversely affect the 2002–2003 domestic inshell market. Accordingly, no interim final free and restricted percentages were recommended. Final free and restricted percentages were recommended at 18.4392 and 81.5608 percent, respectively. The final free percentage released 3,667 tons of inshell hazelnuts from the 2002 supply for domestic use.

The final marketing percentages are based on the Board's final production estimate and the following supply and demand information for the 2002–2003 marketing year:

		Tons
Inshell Supply:		
(1) Total production (crop estimate) .....		18,000
(2) Less substandard, farm use (disappearance; 5.23 percent of Item 1) .....		941
(3) Merchantable production (Board's adjusted crop estimate; Item 1 minus Item 2) .....		17,059
(4) Plus undeclared carryin as of July 1, 2002, (subject to regulation) .....		2,828
(5) Supply subject to regulation (Item 3 plus Item 4) .....		19,887
Inshell Trade Demand:		
(6) Average trade acquisitions of inshell hazelnuts for three prior years .....		3,563
(7) Less declared carryin as of July 1, 2002, (not subject to regulation) .....		430
(8) Adjusted Inshell Trade Demand (Item 6 minus Item 7) .....		3,133
(9) Desirable carryout on August 31, 2003 (15 percent of Item 6) .....		534
(10) Adjusted Inshell Trade Demand plus desirable carryout (Item 8 plus Item 9) .....		3,667
Percentages		Free
		Restricted
(11) Final percentages .....		
(Free percentage = Item 10 divided by Item 5) × 100		
(Restricted percentage = 100 minus the free percentage)		18.4392
		81.5608
(12) Final free in tons (Item 10) .....		3,667
(13) Final restricted in tons (Item 5 minus Item 10) .....		16,220

In addition to complying with the provisions of the order, the Board also considered USDA's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has

available a quantity equal to 110 percent of prior years' shipments before allocating supplies for the export inshell, export kernel, and domestic kernel markets. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. The established final percentages will make available an additional 534 tons for desirable carryout. The total free supply for the

2002–2003 marketing year is 4,097 tons of hazelnuts, which is the sum of the final trade demand of 3,563 tons and the 534 ton desirable carryout. This amount is 115 percent of prior years' sales and exceeds the goal of the Guidelines.

#### Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of