plentiful supplies for consumers and for market expansion while retaining a mechanism for dealing with oversupply situations.

The hazelnut industry in Oregon and Washington has satisfied the Guidelines' 110 percent requirement. Pursuant to § 982.40(b), each year the Board may, for market expansion purposes, increase inshell trade demand by an amount up to 25 percent of the previous 3 years' average inshell trade acquisitions. In addition, the Board must add to the adjusted inshell trade demand a total of 15 percent of the 3-year inshell trade acquisition average to meet the desirable carryout requirement of § 982.40(c)(2). This more than meets the 110 percent requirement.

Over the years, the authority for these increases has caused the Board to exceed the Guidelines' 110 percent requirement. It is possible that the Board could choose to recommend a market expansion increase and a final free and restricted percentage increase that totalled less than the Guidelines' 110 percent requirement. However, based on present Board practices, such a recommendation is not expected. Any Board recommendation that totalled less than the 110 percent requirement could be referred by the Secretary back to the Board.

Thus, § 982.40(c)(2) should be amended to provide that the final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell hazelnuts for desirable carryout.

(7) In paragraph (b) of § 982.46, Inspection and certification, specific identification practices for the handling and withholding of restricted obligation hazelnuts should be amended to provide that all inspected and certified hazelnuts shall be identified as prescribed by the Board.

Traditionally, hazelnuts were inspected and certified as either free or restricted before or during handling, or before being set aside as withheld for restricted obligation. Paragraph (b) provides that handlers use seals, stamps, tags or other identification fixed to the containers to identify lots set aside as either free or restricted hazelnuts. However, the record indicates that, since 1975, industry practices have changed significantly and now allow handlers to substitute fresh hazelnut lots for free and restricted lots that have been set aside. It is no longer necessary for handlers to meet their volume control obligations by maintaining restricted lots that are sealed, stamped, tagged, or otherwise so identified.

Under the proposed amendment, the Board may prescribe other methods of identification of restricted obligation hazelnuts. The record indicates that the Board currently allows handlers to carryover hazelnuts which are reported as either undeclared, declared restricted, or declared free. The hazelnuts are reported as one or the other, but do not have to be specifically so marked.

These relaxed identification procedures would enable handlers to continue to meet identification requirements for restricted obligation hazelnuts without setting aside specific, identifiable lots. The amended procedures would bring the marketing order provisions up-to-date with current industry practices. Thus, § 982.46(b) should be amended to provide that hazelnuts inspected and certified for free and restricted use shall be identified as prescribed by the Board.

(8) In paragraph (a) of § 982.51, Restricted credit for ungraded inshell hazelnuts and for shelled hazelnuts, the current language that authorizes handler credit for ungraded hazelnuts should be amended to delete an incorrect and misleading term.

This provision allows handlers to receive merchantable credit for ungraded inshell hazelnuts they hold to meet their restricted obligation. The hazelnuts must be inspected to determine kernel weight, which is converted back to an inshell equivalent. The industry uses a conversion factor of 60 percent shell or waste product and 40 percent kernel weight. Thus, it takes 2.5 pounds of inshell hazelnuts to make 1 pound of hazelnut kernels—a conversion factor of 2.5 to 1.

However, the first sentence of paragraph (a) of § 982.51 states that the conversion factor is 2.5 "percent." The term "percent" is not correct and, in fact, greatly reduces the conversion factor. If the conversion factor was to be represented as a percentage, it would be 250 percent. This error evidently occurred when § 982.51 was amended in 1986. The Board and industry handlers have been operating on the correct conversion factor of 2.5 to 1. Thus, the language that specifies handler credit for ungraded hazelnuts in § 982.51 should be amended to correct the conversion factor as stated herein.

(9) In § 982.54, Deferment of restricted obligation, several changes and conforming changes should be made to provisions regarding bonding values and rates, the use of defaulted bond funds, and the Board's flexibility when dispensing defaulted bond funds.

Prior to or upon shipping inshell hazelnuts to the trade demand area,

handlers are required to withhold from handling a quantity of hazelnuts equal to the restricted obligation resulting from that shipment. Hazelnuts so withheld may be exported inshell or shelled. The withholding obligation also may be deferred. Section 982.54 provides that a handler may post a bond as a guarantee that the handler will eventually fulfill the handler's restricted obligations. Hearing testimony indicates that the provision establishing the bonding rate currently specified in the order is too high and too burdensome on handlers under present marketing conditions.

Handlers may either shell or export inshell as many hazelnuts as they wish, but they are limited in the amount of inshell hazelnuts they can sell as free tonnage in the trade demand area when volume regulations are in effect. Volume regulations under the order require that, prior to or upon shipping inshell hazelnuts to the trade demand area, handlers shall withhold from handling a quantity of hazelnuts equal to the restricted obligation resulting from that shipment. Hazelnuts so withheld may be certified merchantable, inspected ungraded, or certified shelled. The domestic inshell market is extremely seasonal with most of the shipments occurring in October or early November, the same period when hazelnuts are harvested and delivered to handlers. During this period, handlers do not have enough hazelnuts certified, inspected, or shelled to meet their restricted obligations. Therefore, handlers use the bonding provisions in the order to defer a large part of their obligations.

As domestic use of inshell hazelnuts has declined and production has increased, the percent of the crop going to the primary inshell market has dropped. For example, in the 1993-94 marketing season, the free percentage was only 13 percent—resulting in a restricted obligation nearly 6.7 times the quantity handled for the free market. Such a high restricted obligation-tohandling ratio makes a bonding rate based on the price for inshell hazelnuts very burdensome. Such a high bonding rate is not necessary as long as the bonding rate reflects the difference between the domestic inshell price and the returns available in authorized markets for restricted hazelnuts such as inshell exports or shelling.

Inshell exports have been a large and growing market for restricted hazelnuts. In some years, the average reported value for inshell exports has exceeded domestic quotations for domestic sales of U.S. No. 1 large hazelnuts. This apparently results from a willingness of some foreign buyers to pay a significant