Upcoming Annual Meetings and Conventions 2001

Date	Organization	Location	Telephone
June 10-12	Ontario Dairy Council - Annual Meeting	Huntsville	905 542 3620
June 11-12	Canadian Poultry and Egg Processors Council - Annual Meeting	Winnipeg	613 724 6605
June 15	Ontario Flour Millers Association - Annual Meeting	Alton	519 621 4060
June 18-19	Ontario Agri-Business Association - Grain Conference	Huntsville	519 822 3004
July 5	Ontario Flue-Cured Tobacco Growers' Marketing Board - Annual Meeting	Delhi	519 842 3661
July 31	Ontario Apple Marketing Commission - Annual Meeting	Mississauga	905 858 1060
Aug. 27	Ontario Wheat Producers' Marketing Board - Annual Meeting	Stratford	519 767 6537
Sept. 5 - 6	Ontario Agri-Business Association - Fertilizer Conference	Grand Bend	519 822 3004
Sept. 10	Ontario Agri-Business Association - Feed Conference	Guelph	519 822 3004
Sept. 30 - Oct. 3	National Dairy Council - Annual Meeting	New Brunswick	613 238 4116
Oct. 14	Canadian Restaurant and Foodservice Association – Hostex/AGM	Toronto	416 923 8416
Oct. 23	Ontario Tomato Seedling Growers' Marketing Board - Annual Meeting.	Leamington	519 326 4481
	Ontario Greenhouse Vegetable Producers' Marketing Board		519 326 2604
Oct. 23	District One	Leamington	
Oct. 25	District Two	Ancaster	
Oct .26-27	Ontario Sheep Marketing Agency - Annual Meeting	Guelph	519 836 0043
Oct. TBA	Ontario Milk Transport Association - Annual Meeting	Toronto	416 675 0038
Oct. TBA	Canadian Federation of Independent Grocers - Annual Meeting	Toronto	416 492 2311
Nov. 16	Canadian Council of Grocery Distributors – Ontario Conference	Toronto	416 922 6228
Nov. TBA	Ontario Federation of Agriculture - Annual Meeting	Toronto	416 485 3333
Nov./Dec. TBA	Ontario Farm Products Marketing Commission Fall Seminar	Ingersoll	519 826 3404

This information is provided strictly for our readers' convenience. Please note that organizations may restrict attendance to some or all of their agenda items. Please contact each organization for more information on programs, agenda items open to non-members, and location. While the Commission endeavours to ensure this information is correct. readers are responsible for confirming its accuracy with individual organizations before making any plans to attend.

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For more information about this newsletter please email us at dpost@omafra.gov.on.ca
This newsletter is available on our website <www.gov.on.ca/OMAFRA/english/farmproducts/index.html>

O F P M C

Ontario Farm Products Marketing Commission

N e w s l e t t e r

May 2001 - Issue #88

Could the CherrCo Marketing Model Work Elsewhere?

"Since CherrCo has been in place, the price for 30 lb. frozen packs of cherries sold to further processors has risen methodically," according to the cherry co-operative's president, Jim Jensen.

Jensen made his remarks to a packed house during the "Planning to Compete" conference put on by the Niagara Peninsula Fruit and Vegetable Growers Association. Given that he was the last speaker on the last day of a two-day conference, the grower interest in this cross-border marketing phenomenon was apparent.

Since CherrCo has been on the scene, the stability of supply to further processors has been restored. Granted those further processors don't see fire-sale price swings like they used to but they can live with that if they know they will have ingredients for their processed foods. "To give you an idea how poorly the market was performing, we believe that one of the reasons that McDonald's pulled their cherry pie off the menu was because they couldn't be sure their suppliers could deliver at a stable price," Jensen pointed out.

The process that led to CherrCo started in 1997 at the same time the USDA issued a Federal Marketing Order (FMO) to manage the supply of cherries. The FMO applies only to handlers and the Cherry Industry Administration Board administers it.

Jim Jensen, President of CherrCo

The major role of the Board is to decide how much of the cherry crop is to be held off the market. The FMO is also subject to periodic referendums not unlike how Ontario's apple producers recently voted on the future of the Ontario Apple Marketing Commission.

> " McDonald's pulled their cherry pie off the menu because they weren't sure their suppliers could deliver at a stable price."
>
> *Jim Jensen, CherrCo*

It should also be noted that the USDA will not allow the market to be shorted. Jensen reported that to short the market, "is against the law." The available cherries have to represent 110% of sales. The sales level is determined by a three-year sales average.

The Federal Marketing Order set the stage for the industry co-operation that led to the creation of CherrCo. As a federated co-operative, CherrCo represents 75% of North America's tart cherry production. Four Ontario tart cherry handler/packers are part of the co-operative.

The FMO prescribes five ways that excess supply can be dealt with. Export sales are

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Ontario Ministry of Agriculture, Food and Rural Affairs
For Ontario Marketing Boards and Food Industry Associations

Director Responsibility & Liability

Rob Wilson of Wilson, Spurr LLP posed directors with challenging scenarios at the Directors' Workshop in April.

The following is a sample from Mr. Wilson's presentation:

The Board denies a producer's request for a quota transfer on the basis that the proposed purchaser of the farm and quota has been found in contravention of the regulations of two other marketing boards and has publicly stated she has no intention of following "any stupid rules". The Appeal Tribunal upholds the Board decision but by then, the prospective purchaser has changed her plans and is moving to New Zealand. At the same time, quota prices take a sharp decline due to an unfavourable WTO ruling and the real estate market collapses due to an economic downturn. The producer who lost his farm sale deal sues the Board and its officers and directors for damages. You as a Board member are served with a Statement of Claim.

Consider your legal position and that of your Board and fellow Board Members.

The Board has broad authority on quota transfer issues and can look at all aspects of the proposed transfer. There is clear evidence of breaches of regulations, but not the regulations of the marketing board involved. Since the Tribunal upheld the Board's decision, a court of law would give that considerable weight as it would to any decision of a specialized Tribunal in a particular industry. On Judicial Review, the Court would have to find some procedural flaw or error of law. While there is no doubt the proposed transferor lost a potential profit, you have to question whether there was any liability. There is no evidence the Board members did not act in good faith. The issue becomes: Is what was done within the Board's authority or purported authority? I would argue that yes it is as the words "for any reason", which the Board can use for refusing a quota transfer, would include breaches of other boards' regulations. As long as the Board is found to have acted properly in its decision there is no likelihood of Board members being found liable for having caused the marketing board to take such action.

Directors' Seminar Addresses Challenges

On April 9th, directors, councillors and senior board staff faced an intense morning of training. Topics ranged from legal liability to governance issues and regulations.

This marked the first year that the popular workshop was opened up to elected councillors. The response was favourable.

Ninety percent of the marketing board directors who are in their first term of office attended the workshop.

(L to R) John Kassies and Rick Kootstra are councillors with Chicken Farmers of Ontario. They took the opportunity to learn more about the challenges and responsibilities of becoming a marketing board director.

(L to R) Greg Hannam and Rene Petrowski are directors with the Ontario Soybean Growers.

Could the CherrCo Marketing Model Work Elsewhere?

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defined as sales outside of North America which appears to enhance co-operation between the US and Canada rather than seeing those cherries flood our market. The excess can also be directed to the development of new products or markets being tested.

If there is a weakness to the structure, Jensen points to the production threshold of 15 million lbs. that exempts some states from the FMO. But he is satisfied that 80% of US production comes under the FMO.

As a federated co-operative, CherrCo uses independent management. It has created 3-year, rolling contracts and inventory is consigned to CherrCo who pays the storage costs. CherrCo handles the cash flow. The returns are pooled although quality incentives are provided based on their own grading which exceeds US Grade A. Beyond that, each member operates autonomously.

Jensen clarified CherrCo's role between growers and packers saying, "the co-operative doesn't decide how much of the increased price we've negotiated goes to each stakeholder group." Jensen left the audience with the impression that while CherrCo and the FMO are creating conditions to grow the tart cherry market, they have not intervened to monitor the fair distribution of benefits to packers and growers alike.

That being said, Jensen says cranberry growers are very interested in reproducing the effects in their industry. Apparently, so too are apple and raspberry producers.

Reflecting on the effect CherrCo has had on industry relations, Jensen remarked, "We're not all holding hands yet, but we are also not throwing things at each other."

OFPMC Update

The following is a summary of issues recently addressed by the Ontario Farm Products Marketing Commission.

Apple Vote Next Steps

OFPMC met with the full board of the Ontario Apple Marketing Commission to review and discuss the results of the Producer Expression of Opinion Vote.

The Minister of Agriculture, Food and Rural Affairs, Brian Coburn, has asked OFPMC to co-ordinate an independent, third party review and analysis of the Ontario Apple Marketing Plan. The objective is to provide information to enable OFPMC to make a recommendation on the future of the Marketing Plan.

The results of the Producer Vote were not sufficient to prompt outright termination of the Apple Commission, but they were a strong signal to look for the cause of weak support.

OFPMC has subsequently met again with the Ontario Apple Marketing Commission to discuss next steps to address operations of the Apple Commission while the independent third party review is in progress. That review is anticipated to be completed by August 15, 2001.

Ginseng Vote

After allowing two weeks for all ballots to clear the mail system, two scrutineers counted the ballots cast by Ontario's ginseng producers to determine whether there is sufficient producer support for the creation of a Representative Association for this commodity under section 12 of the Farm Products Marketing Act.

The Commission will review the results at its May meeting before forwarding a recommendation to the Minister of Agriculture, Food and Rural Affairs for his consideration.

CEMA Meeting

The Commission met with the Canadian Egg Marketing Agency and the Ontario Egg Producers to discuss contentious issues in the industry.

Both OFPMC and OEP are not satisfied with CEMA's inaction on Ontario's request to allocate another 300,000 laying hens here.

The dynamics of the marketplace are showing a steady increase in the need for eggs for processing while the table egg market is growing too, but at a slower rate. The situation has prompted the industry to develop an "Eggs for Processing" policy. Under this CEMA policy, each province sets its own production goals in concert with the processors interested in the industrial eggs. This would be for industrial eggs not already allocated through CEMA and receiving the benefits of a producer levy. The drawback is the contractual assurances that CEMA wants which are unworkable.

Potato Arbitration Dispute

Arbitrations in the potato industry are being challenged by buyer/processors. At the time of publication, applications had been filed with the Ontario Superior Court of Justice to set aside the arbitrators' awards. The issue will now be resolved in civil court.

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