DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS-SC-19-100; SC-20-930-1 PR]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2019-20 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Cherry Industry Administrative Board (Board) to establish free and restricted percentages for the 2019-20 crop year under the Marketing Order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This action would establish the proportion of tart cherries from the 2019-20 crop which may be handled in commercial outlets. This action should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. Also, a correction would be made to this section to reflect the correct desirable carry-out inventory not to exceed a maximum of 100 million pounds..

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or Internet: http://www.regulations.gov. All comments should reference the document number and the date and page number of this issue of the *Federal Register* and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.regulations.gov. All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA;

Telephone: (863) 324-3375, Fax: (863) 291-8614, or E-mail: Jennie.Varela@usda.gov or Christian.Nissen@usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Richard.Lower@usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 930, both as amended (7 CFR part 930), regulating the handling of tart cherries produced in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin. Part 930 (referred to as the "Order") is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." The Board locally administers the Order and is comprised of producers and handlers of tart cherries operating within the production area, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory action that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' " (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order provisions now in effect, free and restricted percentages may be established for tart cherries handled during the crop year. This proposed rule would establish free and restricted percentages for tart cherries for the 2019-20 crop year, beginning July 1, 2019, through June 30, 2020.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule invites comments on the establishment of free and restricted percentages for the 2019-20 crop year. This proposal would establish the proportion of tart cherries from the 2019-20 crop which may be handled in commercial outlets at 67 percent free and 33 percent restricted. The Secretary of Agriculture (Secretary) has determined that designating free and restricted percentages of tart cherries for the 2019-20 crop year would effectuate the declared policy of the Act to stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. A correction would also be made to § 930.151 to reflect the correct desirable carry-out inventory not to exceed a maximum of 100 million pounds (81 FR 63676). These recommendations were made by the Board at meetings on June 27, 2019, and September 12, 2019.

Section 930.51(a) provides the Secretary authority to regulate volume by designating free and restricted percentages for any tart cherries acquired by handlers in a given crop year. Section 930.50 prescribes procedures for computing an optimum supply based on sales history and for calculating these free and restricted percentages. Free percentage volume may be shipped to any market, while restricted percentage volume must be held by handlers in a primary or secondary reserve, or be diverted or used for exempt purposes as prescribed in §§ 930.159 and 930.162. Exempt purposes include, in part, the development of new products, sales into new markets, the development of export markets, and charitable contributions. Sections 930.55 through 930.57 prescribe procedures for inventory reserve. For cherries held in reserve, handlers would be responsible for storage and would retain title of the tart cherries.

Under § 930.52, only districts with an annual average production over the prior three years of at least six million pounds are subject to regulation, and any district producing a crop that is less than 50 percent of its annual average of the previous five years is exempt. The regulated districts for the 2019-20 crop year would be: District 1 - Northern Michigan; District 2 - Central Michigan; District 3 - Southern Michigan; District 7 - Utah; District 8 – Washington; and District 9 – Wisconsin. Districts 4, 5, and 6 (New York, Oregon and Pennsylvania, respectively) would not be regulated for the 2019-20 season.

Demand for tart cherries and tart cherry products tends to be relatively stable from year to year. Conversely, annual tart cherry production can vary greatly. In addition, tart cherries are processed and can be stored and carried over from crop year to crop year, further impacting supply. As a result, supply and demand for tart cherries are rarely in balance.

Because demand for tart cherries is inelastic, total sales volume is not very responsive to changes in price. However, prices are very sensitive to changes in supply.

As such, an oversupply of cherries would have a sharp negative effect on prices, driving down grower returns. Aware of this economic relationship, the Board focuses on using the volume control provisions in the Order to balance supply and demand to stabilize industry returns.

Pursuant to § 930.50, the Board meets on or about July 1 to review sales data, inventory data, current crop forecasts, and market conditions for the upcoming season and, if necessary, to recommend preliminary free and restricted percentages if anticipated supply would exceed demand. After harvest is complete, but no later than September 15, the Board meets again to update its calculations using actual production data, consider any necessary adjustments to the preliminary percentages, and determine if final free and restricted percentages should be recommended to the Secretary.

The Board uses sales history, inventory, and production data to determine whether there is a surplus and, if so, how much volume should be restricted to maintain optimum supply. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year. Optimum supply is defined as the average free sales of the prior three years plus desirable carry-out inventory. Desirable carry-out is the amount of fruit needed by the industry to be carried into the succeeding crop year to meet market demand until the new crop is available. In June 2015, after considering market circumstances and needs; the Board recommended a desirable carry-out inventory not to exceed a maximum of up to 100 million pounds beginning with the 2016 crop year. That action was subsequently approved by the Secretary (81 FR 63676). Therefore, a correction would be made to § 930.151 to reflect the correct desirable carry-out inventory not to exceed a maximum of 100 million pounds.

In addition, USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This requirement is codified in § 930.50(g), which specifies that in years when restricted percentages are established, the Board shall make available tonnage equivalent to an additional 10 percent of the average sales of the prior three years for market expansion (market growth factor).

After the Board determines optimum supply, desirable carry-out, and market growth factor, it must examine the current year's available volume to determine whether there is an oversupply situation. Available volume includes carry–in inventory (any inventory available at the beginning of the season) along with that season's production. If production is greater than the optimum supply minus carry-in, the difference is considered surplus. This surplus tonnage is divided by the sum of production in the regulated districts to reach a restricted percentage. This percentage must be held in reserve or used for approved diversion activities, such as exports.

The Board met on June 27, 2019, and computed an optimum supply of 313 million pounds for the 2019-20 crop year using the average of free sales for the three previous seasons and desirable carry-out. To determine the carry-out figure, the Board discussed and considered a range of alternatives. One member suggested a carry-out value of 20 million pounds, noting high carry-out puts downward pressure on grower prices. Another member agreed, noting the actual carry-out is often twice what the Board has estimated as desirable. Some members favored a carry-out of 50 million pounds. Other members were concerned that too low of a carry-out may push the restricted percentage too high for the industry to implement and suggested repeating the carry-out of 80 million pounds from the previous season. The Board's executive director noted average sales are about 21 million pounds a month. Using that average, it would take 84 million pounds to supply the industry for four months. After considering the alternatives, the Board determined a carry-out of 85 million pounds would be enough to supply the industry's needs at the beginning of the next season.

The Board subtracted the estimated carry-in of 174 million pounds from the optimum supply to calculate the production quantity needed from the 2019-20 crop to meet optimum supply. This number, 139 million pounds, was subtracted from the Board's estimated 2019-20 total production (from regulated and unregulated districts) of 248.2 million pounds to calculate a surplus of 109.2 million pounds of tart cherries. The Board also complied with the market growth factor requirement by removing 22.8

million pounds (average sales for prior three years of 228 million times 10 percent) from the surplus. The adjusted surplus of 86.4 million pounds was then divided by the expected production in the regulated districts (240 million pounds) to reach a preliminary restricted percentage of 36 percent for the 2019-20 crop year.

The Board then discussed whether this calculation would supply enough cherries to grow sales and fulfil orders that have not yet shipped. Some members reported there had been excessive rainfall, especially in Michigan, during the growing season. This could lead to poor fruit quality and handlers would need additional available tonnage to meet sales needs. As a result, the Board recommended an additional economic adjustment of 20 million pounds, which is subtracted from the surplus. The Board also anticipated orchard diversion would be about 50 million pounds, which is subtracted from the expected production. With these modifications, the preliminary restricted percentage was calculated at 35 percent.

The Board met again on September 12, 2019, to consider final volume regulation percentages for the 2019-20 season. The final percentages are based on the Board's reported production figures and the supply and demand information available in September.

The total production for the 2019-20 season was 257.2 million pounds, 9 million pounds above the Board’s June estimate. In addition, growers diverted 18.3 million pounds in the orchard, about a third of what had been anticipated. As a result 238.9 million pounds would be available to market, 230.2 million pounds of which are in the restricted districts. Using the actual production numbers, and accounting for the recommended desirable carry-out and economic adjustment, as well as the market growth factor, the restricted percentage was recalculated.

The Board subtracted the carry-in figure used in June of 174 million pounds, from the optimum supply of 313 million pounds to determine 139 million pounds of 2019-20 production would be necessary to reach optimum supply. The Board subtracted the 139 million pounds from the actual production of 257.2 million pounds, resulting in a surplus of 118.2 million pounds of tart cherries.

The recalculated surplus was reduced by subtracting the revised economic adjustment of 20 million pounds and the market growth factor of 22.8 million pounds, resulting in an adjusted surplus of 75.4 million pounds. The Board then divided this final surplus by the available production of 230.2 million pounds in the regulated districts (248.5 million pounds minus 18.3 million pounds of in-orchard diversion) to calculate a restricted percentage of 33 percent with a corresponding free percentage of 67 percent for the 2019-20 crop year, as outlined in the following table:

		Millions of pounds
Final Calculations:		
(1)	Average sales of the prior three years	228
(2)	Plus desirable carry-out	85
(3)	Optimum supply calculated by the Board	313
(4)	Carry-in as of July 1, 2019	174
(5)	Adjusted optimum supply (item 3 minus item 4)	139
(6)	Board reported production	257.2
(7)	Surplus (item 6 minus item 5)	118.2
(8)	Total economic adjustments	20
(9)	Market growth factor	22.8
(10)	Adjusted Surplus (item 7 minus items 8 and 9)	75.4
(11)	Production in regulated districts	248.5
(12)	In-Orchard Diversion	18.3
(13)	Production minus in orchard diversion	230.2
Final Percentages:		Percent
Restricted (item 10 divided by item 13 × 100)		33
Free (100 minus restricted percentage)		67

The final restriction of 33 percent is lower than the preliminary restriction percentage of 35 percent. The change is due to the increase in production from the June estimate and lower in-orchard diversion volume. The desired carry-out remained the same at 85 million pounds. In discussing the calculation, members indicated the quality concerns that led to the adjustment were accurate. Members did not propose any changes to the adjustment following harvest.

During the preliminary and final discussions, attendees raised concerns about the age of free inventory and the impact of imported tart cherry products. The Board voted to form a committee to develop a proposal for collecting additional data regarding inventory. Regarding the impact of imports, the Board approved a research proposal to gather additional data. The Board anticipates these actions would help provide additional data for future volume regulation discussions.

Establishing free and restricted percentages is an attempt to bring supply and demand into balance. If the primary market is oversupplied with cherries, grower prices decline substantially. Restricted percentages have benefited grower returns and helped stabilize the market as compared to those seasons prior to the implementation of the Order. The Board, based on its discussion of this issue and the result of the above calculations, believes the available information indicates a restricted percentage should be established for the 2019-20 crop year to avoid oversupplying the market with tart cherries.

Consequently, the Board recommended final percentages of 67 percent free and 33 percent restricted by a vote of 15 in favor, and 3 opposed. The Board could meet and recommend the release of additional volume during the crop year if conditions so warranted. The Secretary finds, from the recommendation and supporting information supplied by the Board, that designating final percentages of 67 percent free and 33 percent restricted would tend to effectuate the declared policy of the Act, and so designates these percentages.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 400 producers of tart cherries in the regulated area and approximately 40 handlers of tart cherries who are subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $1,000,000, and small agricultural service firms have been defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS) and Board data, the average annual grower price for tart cherries utilized for processing during the 2018-19 season was approximately $0.196 per pound. With total utilization at 288.8 million pounds for the 2018-19 season, the total 2018-19 value of the crop utilized for processing is estimated at $56.6 million. Dividing the crop value by the estimated number of producers (400) yields an estimated average receipt per producer of $141,500. This is well below the SBA threshold for small producers.

A free on board (FOB) price of $0.80 per pound for frozen tart cherries was reported by the Food Institute during the 2018-19 season. Based on utilization, this price represents a good estimate of the price for processed cherries. Multiplying this FOB price by total utilization of 288.8 million pounds results in an estimated handler-level tart cherry value of $231 million. Dividing this figure by the number of handlers (40) yields estimated average annual handler receipts of $5.8 million, which is below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

The tart cherry industry in the United States is characterized by wide annual fluctuations in production. According to NASS, the pounds of utilized tart cherry production for the years 2014 through 2018 were 301 million, 251 million, 319 million, 254 million, and 289 million, respectively. Because of these fluctuations, supply and demand for tart cherries are rarely in balance.

Demand for tart cherries is inelastic, meaning changes in price have a minimal effect on total sales volume. However, prices are very sensitive to changes in supply, and grower prices vary widely in response to the large swings in annual supply. Grower prices per pound for processed utilization have ranged from a low of $0.073 in 1987 to a high of $0.588 per pound in 2012 when a weather event substantially reduced supply.

Because of this relationship between supply and price, oversupplying the market with tart cherries would have a sharp negative effect on prices, driving down grower returns. Aware of this economic relationship, the Board focuses on using the volume control authority in the Order to align supply with demand and stabilize industry returns. This authority allows the industry to set free and restricted percentages as a way to bring supply and demand into balance. Free percentage cherries can be marketed by handlers to any outlet, while restricted percentage volume must be held by handlers in reserve, diverted, or used for exempted purposes.

This proposal would control the supply of tart cherries by establishing percentages of 67 percent free and 33 percent restricted for the 2019-20 crop year. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The proposal would regulate tart cherries handled in Michigan, Utah, Washington, and Wisconsin. The authority for this proposed action is provided in §§ 930.50, 930.51(a), and 930.52. The Board recommended this action at a meeting on September 12, 2019.

This proposal would result in some fruit being diverted from the primary domestic markets. However, as mentioned earlier, the USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. Under this proposal, the available quantity (337.5 million pounds) would be 148 percent of the average sales for the last three years (228 million pounds).

In addition, there are secondary uses available for restricted fruit, including the development of new products, sales into new markets, the development of export markets, and being placed in reserve. While these alternatives may provide different levels of return than the sales to primary markets, they play an important role for the industry. The areas of new products, new markets, and the development of export markets utilize restricted fruit to develop and expand the markets for tart cherries. In 2018-19, these activities accounted for over 88 million pounds in sales, a 6-million-pound increase from the previous season.

Placing tart cherries into reserves is also a key part of balancing supply and demand. Although handlers bear the handling and storage costs for fruit in reserve, reserves stored in large crop years are used to supplement supplies in short crop years. The reserves help the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to supply markets in years when production falls below demand. Further, storage and handling costs are more than offset by the increase in price when moving from a large crop to a short crop year.

The Board recommended a carry-out of 85 million pounds and made a demand adjustment of 20 million pounds in order to make the regulation less restrictive to account for fruit quality concerns. With 174 million pounds of carry-in, 8.7 million pounds of production in the unregulated districts, and 154.8 million pounds of free tonnage from the regulated districts, 337.5 million pounds of fruit would be available for the domestic market. This amount is comparable to the 336.9 million pounds made available in the previous season. Even with the recommended restriction, the domestic market would have an ample supply of tart cherries. Further, should marketing conditions change, and market demand exceed existing supplies, the Board could meet and recommend the release of an additional volume of cherries. Consequently, it is not anticipated that this proposal would unduly burden growers or handlers.

While this proposal could result in some additional costs to the industry, these costs are outweighed by the benefits. The purpose of setting restricted percentages is to attempt to bring supply and demand into balance. If the primary market (domestic) is oversupplied with cherries, grower prices decline substantially. Without volume control, the primary market would likely be oversupplied, resulting in lower grower prices.

An econometric model has been developed to assess the impact volume control has on the price growers receive for their product. Based on the model, the use of volume control would have a positive impact on grower returns for this crop year. With volume control, grower prices are estimated to be approximately $0.04 per pound higher than without restrictions. In addition, absent volume control, the industry could start to build large amounts of unwanted inventories. These inventories would have a depressing effect on grower prices.

Retail demand is assumed to be highly inelastic, which indicates changes in price do not result in significant changes in the quantity demanded. Consumer prices largely do not reflect fluctuations in cherry supplies. Therefore, this proposal should have little or no effect on consumer prices and should not result in a reduction in retail sales.

The free and restricted percentages established by this proposal would provide the market with optimum supply and would apply uniformly to all regulated handlers in the industry, regardless of size. As the restriction represents a percentage of a handler’s volume, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities.

The stabilizing effects of this proposal would benefit all handlers by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all growers and handlers by allowing them to better anticipate the revenues their tart cherries would generate. Growers and handlers, regardless of size, would benefit from the stabilizing effects of the volume restriction.

As noted earlier, the Board had extensive discussions on carry-out inventory alternatives. The alternatives ranged from 20 million pounds to 100 million pounds. Some expressed a concern that the relatively low reserves compared to high carry-in signaled that not enough fruit had been put in reserve in previous seasons. Some attendees indicated excess carry-in over the past few seasons has had a negative effect on returns and growers are seeking relief. The Board noted if the carry-out number was too large, it could have a negative impact on grower returns, but enough fruit was needed to supply processors before the new harvest. After consideration of the alternatives, the Board recommended a carry-out of 85 million pounds.

The Board also weighed alternatives when discussing the economic adjustment. Some member suggested making no adjustment to the formula. However, at its June meeting, the Board recommended a 20-million-pound adjustment to account for fruit quality concerns. When fruit is too large or too small, it does not move as efficiently through the pitting process. The Board was concerned excessive rainfall would result in large, soft, fruit that would not process as well as average-sized fruit. As a result, more fruit would be necessary to get the needed final product. Following harvest, Board members confirmed weather had indeed affected the size of fruit, and that the recommended adjustment was accurate and should not be changed.

In discussing the preliminary recommendation, the Board heard a report from a committee that examined import issues. During the discussion there was a suggestion that the Board might consider using the previous year's import numbers to estimate imported volume in the coming year. However, there was no motion to make an adjustment for imports. To better address these issues, the Board did allocated funds to a research project to provide additional information on the volume and impact of imported cherry products.

Given the concerns with regulation expressed by Board members and industry members in attendance, the Board also considered recommending no volume regulation. However, the data indicated a high carryover from previous seasons has created a substantial surplus. During this discussion, attendees questioned the age of the products in inventory. While all types of products can be stored for multiple years, their value does diminish over time. Reserve inventory must be under two years old, but there are no restrictions on free inventory. Industry members expressed concern that not all inventory is of equal value and suggested the Board should collect information on the age and quality of free inventory. A vote to recommend no volume regulation failed, but the Board did agree to form a committee to investigate potential reporting requirements to provide the industry better data regarding the available inventory. Thus, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581-0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. No changes are necessary in those requirements as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposal would not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Board's meetings were widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meetings and participate in Board deliberations on all issues. Like all Board meetings, the June 27, 2019, and September 12, 2019, meetings were public meetings, and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this proposal on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: http://www.ams.usda.gov/rules-regulations/moa/small-businesses. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930--TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Revise § 930.151 to read as follows:

§ 930.151 Desirable Carry-out inventory.

Beginning with the crop year starting July 1, 2016, for the purposes of determining an optimum supply volume, the Board may recommend a desirable carry-out inventory not to exceed 100 million pounds.

3. Revise § 930.256 and the heading to read as follows:

§ 930.256 Free and restricted percentages for the 2019-20 crop year.

The percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2019, which shall be free and restricted, respectively, are designated as follows: Free percentage, 67 percent and restricted percentage, 33 percent.

Bruce Summers,

Administrator,

Agricultural Marketing Service.

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