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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–SC–23–0074]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2023–24 Crop Year

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Cherry Industry Administrative Board (Board) to establish free and restricted percentages for the 2023–24 crop year under the Federal marketing order for tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This action establishes the proportion of tart cherries from the 2023–24 crop that may be handled in commercial outlets. Adjusting supply to meet market demand should stabilize marketing conditions and help improve grower returns.

DATES: Effective September 11, 2024.

FOR FURTHER INFORMATION CONTACT: Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, or Email: *Steven.Kauffman@usda.gov* or *Christian.Nissen@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 930, 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 growers and handlers of tart cherries operating within the production area, and a public member.

The Agricultural Marketing Service (AMS) is issuing this rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed under Executive Order 13175—Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This 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 for the 2023–24 crop year. This rule establishes free and restricted percentages for the 2023–24 crop year, beginning July 1, 2023, through June 30, 2024.

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 the U.S. Department of Agriculture (USDA) a petition stating that the marketing order, any provision of the marketing order, or any obligation imposed in connection with the marketing order is not in accordance with law and requesting a modification of the marketing order or to be exempted therefrom. Such 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 no later than 20 days after the date of the entry of the ruling.

This rule establishes the proportion of tart cherries from the 2023–24 crop which may be handled at 94 percent free and 6 percent restricted. The Secretary of Agriculture (Secretary) has determined that designating free and restricted percentages of tart cherries for the 2023–24 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. These recommendations were made by the Board at a meeting on September 14, 2023, and reaffirmed at a meeting on December 14, 2023.

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 inventory reserve, handlers are responsible for storage and retain title of the tart cherries.

Under § 930.52, only districts in which the average annual production of cherries over the prior three years has exceeded six million pounds are subject to volume regulation, and any district producing a crop that is less than 50 percent of its annual average processed production in the previous five years would be exempt from any volume regulation. The regulated districts for the 2023–24 crop year are: District 1—Northern Michigan; District 2—Central Michigan; District 3—Southern Michigan; District 4—New York; District 7—Utah; District 8—Washington; and District 9—Wisconsin. Districts 5 and 6 (Oregon and Pennsylvania, respectively) will not be regulated for the 2023–24 season.

Demand for tart cherries and tart cherry products tends to be relatively stable despite the variance in production volume that industry may experience from year to year. Additionally, once processed, tart cherries can be stored and carried over from crop year to crop year, further impacting supply. The Board is aware of this economic relationship and focuses on using the volume control provisions in the marketing 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 exceeds 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 a surplus exists and 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. Desirable carry-out is recommended by the Board after considering market circumstances and needs. Section 930.151(b) specifies that desirable carry-out can range from zero to a maximum of 100 million pounds.

In addition, § 930.50(g) 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. This requirement is in USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (*https://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders*), which specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved.

After the Board determines the optimum supply, desirable carry-out, and market growth factor, it must examine the current year's available volume to determine whether an oversupply might occur. Available volume includes carry-in inventory (any inventory available at the beginning of the season) along with that season's production. If production plus the carry-in inventory is greater than the optimum supply (3-year sales average plus the targeted carry-out), then the difference is considered surplus. The ten percent market expansion factor and any economic adjustments recommended by the Board are then subtracted from this surplus number to arrive at an adjusted surplus. This adjusted 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, new products, or new market activities.

The Board met on June 22, 2023, and computed an optimum supply of 279.2 million pounds for the 2023–24 crop year using the average of free sales for the three previous seasons plus the desirable carry-out. To determine the carry-out figure, the Board discussed a range of alternatives. One member recommended a carry-out value of 85 million pounds, noting he did not think 100 million pounds was necessary to keep the markets supplied. Another member suggested a 70-million-pound carry-out and stated the industry does not need all those cherries in inventory and there will be fewer growers in the future if the market is oversupplied. Other members were concerned that 70 million pounds was too low to satisfy the demand prior to the new crop being available. Discussion also included that the carryover should be enough to supply the needs of the industry in case of a disaster and that the carryover should also reflect the increased number of tart cherry products now supplied to the market. Other members noted that more supply is also needed due to new food safety requirements being implemented. After considering the alternatives, the Board determined a carry-out of 85 million pounds will be enough to supply the industry's needs at the beginning of the next season.

The Board subtracted the carry-in inventory available on June 1 of 137.2 million pounds from the optimum supply to calculate the production quantity needed from the 2023–24 crop to meet optimum supply. This number, 142 million pounds, was subtracted from the Board's estimated 2023–24 total production of 175.2 million pounds (from regulated and unregulated districts) to calculate a surplus of 33.2 million pounds of tart cherries. The Board also complied with the market expansion factor requirement by removing 19.4 million pounds (average sales for prior three years of 194.2 million times 10 percent) from the surplus. The adjusted surplus of 13.8 million pounds was then divided by the expected production in the regulated districts (173.5 million pounds) to reach a preliminary restricted percentage of 8 percent for the 2023–24 crop year.

The Board then discussed whether this calculation would supply enough cherries to grow sales and fulfill orders that have not yet shipped. Some members stated that the Board should account for some large late season demand purchases by the USDA, which should account for approximately 26 million pounds raw product equivalent. After discussing multiple motions for an economic adjustment ranging from 0 to 26 million pounds, the Board did not recommend a preliminary economic adjustment at the June meeting. Without an economic adjustment, the preliminary restricted percentage remained at 8 percent. With this relatively small restriction, the Board did not anticipate significant orchard diversion.

The Board met again on September 14, 2023, to consider final volume regulation percentages for the 2023–24 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 2023–24 season reported at the September meeting was 202.7 million pounds. This exceeded the Board's June production estimate by 27.5 million pounds. In addition, growers diverted 6.86 million pounds in the orchard, lowering the available production for market. As a result, 195.8 million pounds of production will be available to the market, 193.4 million pounds of which are in the districts subject to volume regulation. The Board accounted for the recommended desirable carry-out and economic adjustment, as well as the market growth factor, and recalculated the restricted percentage using the actual production numbers.

The Board subtracted the carry-in figure used in June of 137.2 million pounds, from the optimum supply of 279.2 million pounds to determine 142 million pounds of 2023–24 production would be necessary to reach optimum supply. The Board subtracted the 142 million pounds from the actual production of 202.7 million pounds, resulting in a surplus of 60.7 million pounds of tart cherries.

At its June meeting, the Board did not recommend making an economic adjustment of the optimum supply calculation to address unexpected factors that could have a bearing on the marketing of tart cherries. However, in September, following another discussion of a late seasonal purchase made by USDA, and the possible impact on the available supply, the Board recommended an economic adjustment of 30 million pounds to ensure sufficient inventory was available to meet demand.

The Board also discussed the impact of imported tart cherries on the domestic market. Imports have been an important topic of discussion for the Board when considering preliminary and final volume recommendations since the demand for tart cherries is inelastic. In June, the Board received a presentation indicating tart cherry imports were only approximately 1⁄7 of the volume previously reported. At the September meeting, AMS verified the industry report and confirmed that tart cherry imports were considerably less than previously reported. As a result, the Board did not recommend making an additional economic adjustment based on imports.

The calculated surplus was reduced by subtracting the economic adjustment of 30 million pounds from the September meeting and the market growth factor of 19.4 million pounds, resulting in an adjusted surplus of 11.25 million pounds. The Board then divided the adjusted surplus by the available production of 193.4 million pounds (202.66 million pounds minus 6.86 million pounds of in-orchard diversion minus 2.44 million pounds from unregulated districts) in the regulated districts to calculate a restricted percentage of 5.8 percent. The Board rounded this number up, and recommended a 6 percent restriction (11.6 million pounds) with a corresponding free percentage of 94 percent (181.8 million pounds) in the regulated districts for the 2023–24 crop year, as outlined in the following table from the September meeting:

	Millions of pounds
September Calculations:	
(1) Average sales of the prior three years	194.2
(2) Desirable carry-out	85
(3) Optimum supply calculated by the Board (item 1 plus item 2)	279.2
(4) Carry-in as of July 1, 2023	137.2
(5) Adjusted optimum supply (item 3 minus item 4)	142
(6) Board reported production	202.7
(7) Surplus (item 6 minus item 5)	60.7
(8) Total economic adjustments	30
(9) Market growth factor	19.4
(10) Adjusted Surplus (item 7 minus items 8 and 9)	11.25
(11) Production in regulated districts	200.2
(12) In-Orchard Diversion	6.86
(13) Production minus in-orchard diversion	193.4
Final Percentages:	Percent
Restricted (item 10 divided by item 13 × 100)	6
Free (100 minus restricted percentage)	94

The final restriction of 6 percent is lower than the preliminary restriction percentage of 8 percent. The change is due to the increase in production of 27.5 million pounds more in total production above the June estimate, and the 30-million-pound economic adjustment the Board made in September. The desired carry-out remained the same at 85 million pounds.

After the September meeting, industry reported an additional 3.24 million pounds of production that was not accounted for at the September meeting. The Board met again on December 14, 2023, and reviewed the impact of this additional production on the free and restricted percentages recommended at the September meeting. The inclusion of the additional 3.24 million pounds would increase the surplus from approximately 60.7 to 63.9 million pounds. Given no further changes to the other numbers incorporated in the September calculation, this surplus change would increase the restricted percentage to 7.4 percent.

The Board discussed maintaining the final restriction at 6 percent as recommended in September. Members recognized that this would relieve the industry from the burden of having to meet an increased reserve requirement of 1.4 percent more (7.4% − 6% = 1.4%). Since the industry makes business decisions based on the June estimates and the final recommendation from September, a late season increase to the reserve requirement could have a negative impact on some industry members. After discussing the possible impact of the increased production, the Board unanimously recommended increasing the economic adjustment by the 3.24 million pounds of additional production to offset its impact on available supply and to leave the percentages recommended in September in place with 94 percent free and 6 percent restricted for the 2023–24 season.

With these changes, the total production increased from 202.7 million pounds to 205.9 million pounds and the surplus rose to 63.9 million pounds. The economic adjustment shifted from 30 million pounds to 33.24 million pounds, balancing out the additional surplus. Using the new production number and the revised economic adjustment to recalculate the restricted percentage, and rounding up, results in a 6 percent restriction percentage as recommended at the September meeting, as outlined in the following table from the December meeting:

	Millions of pounds
Final Calculations:	
(1) Average sales of the prior three years	194.2
(2) Desirable carry-out	85
(3) Optimum supply calculated by the Board (item 1 plus item 2)	279.2
(4) Carry-in as of July 1, 2023	137.2
(5) Adjusted optimum supply (item 3 minus item 4)	142
(6) Board reported production	205.9
(7) Surplus (item 6 minus item 5)	63.9
(8) Total economic adjustments	33.24
(9) Market growth factor	19.4
(10) Adjusted Surplus (item 7 minus items 8 and 9)	11.25
(11) Production in regulated districts	203.46
(12) In-Orchard Diversion	6.86
(13) Production minus in-orchard diversion	196.6
Final Percentages:	Percent
Restricted (item 10 divided by item 13 × 100)	6
Free (100 minus restricted percentage)	94

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 results of the above calculations, believes the available information indicates a restricted percentage should be established for the 2023–24 crop year to avoid oversupplying the market with tart cherries.

Consequently, the Board recommended final percentages of 94 percent free and 6 percent restricted by a vote of 12 in favor, and 4 opposed on September 14, 2023, but later unanimously recommended the same percentages at the meeting on December 14, 2023. The Board could meet during the crop year, and if conditions so warranted, recommend the release of additional volume. The Secretary finds, from the recommendation and supporting information supplied by the Board, that designating final percentages of 94 percent free and 6 percent restricted tends to effectuate the declared policy of the Act, and so designates these percentages.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final 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 the 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 growers of tart cherries in the regulated area and approximately 30 handlers of tart cherries who are subject to regulation under the Order. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural growers of tart cherries as those having annual receipts equal to or less than $3.5 million (NAICS code—111339, Other Noncitrus Fruit Farming), and small agricultural service firms, including handlers, were defined as those whose annual receipts are equal to or less than $34 million (NAICS code 11514, Postharvest Crop Activities) (13 CFR 121.201).

According to data from the National Agricultural Statistics Service (NASS), the 2022–2023 season average grower price for tart cherries utilized for processing was approximately $0.218 per pound. With total utilization for processing at 241.6 million pounds for the 2022–23 season, the total 2022–23 value of the crop utilized for processing is estimated at $52.7 million. Dividing the crop value by the estimated number of growers (400) yields an estimated average annual receipts per grower of approximately $132,000. This is well below the $3.5 million SBA threshold for small growers.

An estimate of the season average price per pound received by handlers for processed tart cherries was derived from USDA's purchases of dried tart cherries for feeding programs in 2023, which had an average price of $4.72 per pound. The dried cherry price was converted to a raw product equivalent price of $0.94 per pound at an industry recognized ratio of five to one. Based on utilization, this price represents a good estimate of the price for processed cherries. Multiplying this price by total processed utilization of 241.5 million pounds results in an estimated handler-level tart cherry value of $227 million. Dividing this figure by the number of handlers ($227 million divided by 30 handlers) yields estimated average annual receipts per handler of approximately $7.6 million, which is well below the SBA threshold of $34 million for small agricultural service firms. Assuming a normal distribution, the majority of growers 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 tart cherry production utilized for processing for the years 2019 through 2022 were 234 million, 138 million, 171 million, and 241 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 $0.07 in 1987 to a high of $0.59 per pound in 2012 when a weather event substantially reduced supply. Grower prices per pound for processed utilization over the most recent three years for which data is available (2020 through 2022) were $0.38, $0.50, and $0.22, respectively.

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 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 rule establishes 2023–24 crop year percentages of 94 percent free and 6 percent restricted. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The rule regulates tart cherries handled in Michigan, Utah, Washington, Wisconsin, and New York. The authority for this action is provided in §§ 930.50, 930.51(a), and 930.52. The Board recommended this action at meetings on September 14, 2023, and December 14, 2023.

This action will result in some fruit being diverted from the primary domestic markets as authorized in the Order's marketing policy in § 930.50. However, as mentioned earlier, the USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (*https://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 crop year per § 930.50(g), before recommendations for volume regulation are approved. Under this action, the available quantity of 324.4 million pounds (Free production of 184.8 million plus a carry-in of 137.2 million plus 2.4 million pounds unregulated) is 167 percent of the average sales for the last three years (194.2 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.

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 can be 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. During the 2020–21 season, the Board voted to release all fruit in the reserve into the primary market to increase supply.

In considering the establishment of free and restricted percentages, the Board recommended a carry-out of 85 million pounds to help ensure sufficient product to meet demand until availability of the following year's crop and to allow for inventory to span the lead-time on processing new products. The Board also recommended a demand adjustment of 33.24 million pounds. These numbers, along with carry-in, production in the unregulated districts, and free tonnage from the regulated districts, will make 324.4 million pounds of fruit available for the domestic market. This amount exceeds the 317.4 million pounds available in the previous season when the industry did not regulate the volume on the market. Even with the recommended restriction, the domestic market will have an ample supply of tart cherries. Further, should marketing conditions change, and market demand exceed the existing supplies, the Board could meet and recommend the release of additional reserves up to 11.8 million pounds of tart cherries. Consequently, it is not anticipated that this action will unduly burden growers or handlers.

While this action may 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 AMS econometric model used to assess the impact volume control has on the price growers receive for their product estimated that volume control should have a positive impact on grower returns for this crop year. With volume control, grower prices are estimated to be about nine tenths of a cent higher than without restrictions. In addition, absent volume control, the industry could start to build large amounts of unwanted inventories, which in turn, could have a depressing effect on grower prices.

Retail demand is assumed to be 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 action 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 final rule will provide the market with optimum supply and 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 rule will 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 will generate. Growers and handlers, regardless of size, will benefit from the stabilizing effects of the volume restriction.

As noted earlier, the Board discussed several carry-out inventory alternatives, ranging from 70 million pounds to 100 million pounds. The Board noted if the carry-out number was too large, it could have a negative impact on grower returns, and if it was too small, it could negatively impact the supply processors need before the harvest next season. 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. At its June meeting, the Board did not recommend making an economic adjustment after considering alternatives that included making no economic adjustment or an economic adjustment of 26 million pounds. However, in September, the Board revisited the issue and after discussion, and considering the impact of purchases by the USDA on available supply, recommended an economic adjustment of 30 million pounds. Additionally, the Board met again on December 14, 2023, and unanimously recommended adding another 3.24 million pounds to the economic adjustment to reflect the additional production volume.

Given the concerns with regulation expressed by Board members and industry members in attendance, the Board also considered recommending no volume regulation. However, after considering the larger than expected harvest and the carry-in inventory adding to the available supply, the industry recommended a six percent restriction to the 2023–24 crop. Thus, the alternatives were rejected.

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, September, and December meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit comments on this rule, including the regulatory and informational impacts of this action on small businesses.

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 rule will 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.

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

A proposed rule concerning this action was published in the **Federal Register** on April 19, 2024 (89 FR 28682). Copies of the proposed rule were sent via email to all Board members and tart cherry handlers. The proposed rule was also made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending May 20, 2024, was provided to allow interested persons to respond to the proposal. No comments were received during the comment period. Accordingly, AMS made no changes to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://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.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, USDA has determined that this rule is consistent with and will effectuate the policy of the Act.

List of Subjects in 7 CFR Part 930

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agriculture Marketing Service amends 7 CFR part 930 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 part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 930.256 to read as follows:

§ 930.256 Free and restricted percentages for the 2023–24 crop year.

The percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2023, which shall be free and restricted, respectively, are designated as follows: Free percentage, 94 percent and restricted percentage, 6 percent.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–17902 Filed 8–9–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2014–BT–STD–0005]

RIN 1904–AF57

Energy Conservation Program: Energy Conservation Standards for Consumer Conventional Cooking Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Direct final rule; confirmation of effective and compliance dates.

SUMMARY: The U.S. Department of Energy (''DOE'') published a direct final rule to establish new and amended energy conservation standards for consumer conventional cooking products in the **Federal Register** on February 14, 2024. DOE has determined that the comments received in response to the direct final rule do not provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this document confirming the effective and compliance dates of those standards.

DATES: The effective date of June 13, 2024, for the direct final rule published on February 14, 2024 (89 FR 11434) is confirmed. Compliance with the standards established in the direct final rule will be required on January 31, 2028.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting