

diversion credits may provide additional incentive for handlers to develop these programs and may facilitate additional sales, which could improve returns for growers and handlers. Further, the Board does not believe that this change significantly impacts the calculations for free and restricted percentages.

The change in composition of the subcommittee is administrative in nature and is not expected to result in any additional costs.

This rule is expected to benefit the industry. The effects of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

The Board discussed alternatives to these changes, including not changing the number of years that new market development and market expansion projects were eligible for diversion credit. The Board agreed that increasing the number of years that new market development and market expansion projects are eligible for diversion credit from one year to three years provides handlers with more incentive to utilize these programs while not impacting the calculations for free and restricted percentages.

Another alternative considered was maintaining the previous composition of the subcommittee responsible for reviewing exemption requests. However, the Board wanted to specify that the subcommittee be composed of members who are not affiliated with any handler. Therefore, for the reasons mentioned above, these 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 the Office of Management and Budget (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 in those requirements as a result of this action are necessary. 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.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules

that duplicate, overlap, or conflict with this final rule. Further, the public comment received concerning the proposal did not address the initial regulatory flexibility analysis.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry, and all interested persons were invited to attend and participate in Board deliberations on all issues. Like all Board meetings, the June 25, 2015, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

An interim rule concerning this action was published in the **Federal Register** on November 5, 2015, (80 FR 68424) and was effective November 6, 2015. Copies of the rule were sent via email to all Board members and tart cherry handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending January 4, 2016, was provided to allow interested persons to respond to the proposal.

One comment was received during the comment period in response to the interim rule. The commenter, a producer, supported part of the action but offered an alternative to the membership of the subcommittee.

The commenter supported the expansion of handler diversion credits for new market development and market expansion projects from one year to three years. The commenter agreed with the Board's finding that it will encourage growth in the industry.

Regarding the change to the membership of the approval subcommittee, the commenter suggested that membership should be further modified to include cherry growers that are not also handlers. However, the Board's intent in making the revision to the subcommittee requirements was, in part, to ensure impartiality. Consequently, the Board recommended that the subcommittee be composed of members who are not affiliated with any handler. Even growers who are not handlers themselves have a business relationship with the handlers to which they sell.

The additional points in the comment were not relevant to the interim rule. Accordingly, no changes will be made to the interim rule, based on the comment received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule and the comment that was received, go to: <http://www.regulations.gov/#!docketDetail;D=AMS-FV-15-0046>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (80 FR 68424, November 5, 2015) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

■ Accordingly, the interim rule that amended 7 CFR part 930 and that was published at 80 FR 68424 on November 5, 2015, is adopted as a final rule, without change.

Dated: April 12, 2016.

**Elanor Starmer**,  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 2016-08834 Filed 4-15-16; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1290

[Document No. AMS-TM-16-0004]

RIN 0581-AC59

#### Specialty Crop Block Grant Program Regulation; Removal of a Final Rule

**AGENCY:** Agricultural Marketing Service.  
**ACTION:** Final rule; removal.

**SUMMARY:** The Agricultural Marketing Service (AMS) is rescinding and removing from the Code of Federal Regulations 7 CFR part 1290 entitled "Specialty Crop Block Grant Program" (SCBGP) in its entirety. This regulation implemented the SCBGP for the fiscal years 2006 to 2008 and is now obsolete.

**DATES:** Effective April 19, 2016.

**FOR FURTHER INFORMATION CONTACT:** Trista Etzig, Grants Division Director; Telephone: (202) 720-8356; email: [Trista.Etzig@ams.usda.gov](mailto:Trista.Etzig@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** SCBGP is authorized under the Specialty Crop Competitiveness Act of 2004 (7 U.S.C. 1621 note).

AMS published 7 CFR part 1290, as a Final rule, in the **Federal Register** on September 11, 2006 (71 FR 53307), to establish regulations for SCBGP. SCBGP is a noncompetitive grant program that

makes funds available to eligible entities for projects to solely enhance the competitiveness of specialty crops. The rule established SCBGP eligibility and application requirements, review and approval processes, and grant administration procedures for SCBGP for the fiscal years 2006 to 2008.

The grant agreements that 7 CFR part 1290 affected have expired and the regulations are now obsolete. Therefore, the AMS is rescinding and removing the regulation implementing the SCBGP from 2006 to 2008 in its entirety.

#### List of Subjects in 7 CFR Part 1290

Agriculture, Reporting and recordkeeping requirements, Specialty crop block grants.

#### PART 1290—[REMOVED AND RESERVED]

For the reasons set forth in the preamble, under the authority of 7 U.S.C. 1621 note, 7 CFR part 1290 is removed.

Dated: April 12, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016-08832 Filed 4-15-16; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE-2013-BT-STD-0033]

RIN 1904-AD02

#### Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Determination of Portable Air Conditioners as a Covered Consumer Product

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

**ACTION:** Final determination.

**SUMMARY:** The U.S. Department of Energy (DOE) is classifying portable air conditioners (ACs) as a covered product under the Energy Policy and Conservation Act (EPCA), as amended. This classification is based on DOE's determination that portable ACs are a type of consumer product that meets the requisite criteria specified in EPCA. Specifically, DOE has determined that classifying portable ACs as a covered product is necessary or appropriate to carry out the purposes of EPCA, and that average U.S. household energy use by portable ACs is likely to exceed 100 kilowatt-hours (kWh) per year.

**DATES:** This rule is effective May 18, 2016.

**ADDRESSES:** This rulemaking can be identified by docket number EERE-2013-BT-STD-0033 and/or Regulatory Information Number (RIN) 1904-AD02.

**Docket:** The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index may not be publicly available, such as those containing information that is exempt from public disclosure.

A link to the docket Web page can be found at: [https://www1.eere.energy.gov/buildings/appliance\\_standards/rulemaking.aspx/ruleid/76](https://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/76). This Web page will contain a link to the docket for this notice on the [www.regulations.gov](http://www.regulations.gov) site. The [www.regulations.gov](http://www.regulations.gov) Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586-2945 or by email: [Brenda.Edwards@ee.doe.gov](mailto:Brenda.Edwards@ee.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: [Bryan.Berringer@ee.doe.gov](mailto:Bryan.Berringer@ee.doe.gov).

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-1777. Email: [Sarah.Butler@hq.doe.gov](mailto:Sarah.Butler@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Statutory Authority
- II. Current Rulemaking Process
- III. Proposed Definition
- IV. Evaluation of Portable ACs as a Covered Product Subject to Energy Conservation Standards
  - A. Coverage Necessary or Appropriate To Carry Out Purposes of EPCA
  - B. Average Household Energy Use
- V. Procedural Issues and Regulatory Review
  - A. Review Under Executive Order 12866
  - B. Review Under the Regulatory Flexibility Act
  - C. Review Under the Paperwork Reduction Act of 1995
  - D. Review Under the National Environmental Policy Act of 1969
  - E. Review Under Executive Order 13132
  - F. Review Under Executive Order 12988

G. Review Under the Unfunded Mandates Reform Act of 1995

H. Review Under the Treasury and General Government Appropriations Act of 1999

I. Review Under Executive Order 12630

J. Review Under the Treasury and General Government Appropriations Act of 2001

K. Review Under Executive Order 13211

L. Review Under the Information Quality Bulletin for Peer Review

#### I. Statutory Authority

Title III of the Energy Policy and Conservation Act (EPCA), as amended (42 U.S.C. 6291 *et seq.*), sets forth various provisions designed to improve energy efficiency. Part A of Title III of EPCA (42 U.S.C. 6291-6309) established the "Energy Conservation Program for Consumer Products Other Than Automobiles."<sup>1</sup> EPCA authorizes the Secretary of Energy to classify additional types of consumer products not otherwise specified in Part A as covered products. For a type of consumer product to be classified as a covered product, the Secretary must determine that:

- (1) Classifying the product as a covered product is necessary for the purposes of EPCA; and
- (2) The average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year. (42 U.S.C. 6292(b)(1))

For the Secretary to prescribe an energy conservation standard pursuant to 42 U.S.C. 6295(o) and (p) for covered products added pursuant to 42 U.S.C. 6292(b)(1), he must also determine that:

- (1) The average household energy use of the products has exceeded 150 kWh per household for a 12-month period;
- (2) The aggregate 12-month energy use of the products has exceeded 4.2 terawatt-hours (TWh);
- (3) Substantial improvement in energy efficiency is technologically feasible; and

(4) Application of a labeling rule under 42 U.S.C. 6294 is unlikely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) that achieve the maximum energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(l)(1))

Portable ACs are movable units typically designed to provide 8,000-14,000 British thermal units (Btu) per hour (hr) of cooling capacity<sup>2</sup> for a single room. In contrast to room ACs, a covered product that provides

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

<sup>2</sup> As rated according to current industry test methods.