We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

The hackberry is a widespread small-to medium-sized fast-growing tree. It is widely distributed in the eastern United States from the southern New England States through central New York west to North and South Dakota. The range extends south from western Nebraska to northwestern Texas, then east to Arkansas, Tennessee, and North Carolina, with scattered occurrences in Mississippi, Alabama, and Georgia.

The hackberry is not valuable as a timber tree. Hackberry wood is heavy, soft, light-yellow, and coarse-grained. It rots easily and therefore is generally undesirable commercially. Occasionally, it is utilized to produce fencing, crates and boxes, or inexpensive furniture, but more commonly it is used as firewood.[2] Under industry standards for business size established by the Small Business Administration, most firewood retailers and wholesalers are considered to be small entities.

Removal of hackberry from the ALB host list will mean that interstate movement of the wood from ALB-quarantined areas will not require a certificate or limited permit issued by an inspector or by a person operating under a compliance agreement. Firewood wholesalers and retailers and other businesses that move hackberry wood from ALB-quarantined areas will benefit from the interim rule, but the economic effects will be modest.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

[2] *http://plants.usda.gov/plantguide/pdf/pg_ceoc.pdf.*

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.51–2 [Amended]

■ 2. In § 301.51–2, paragraph (a) is amended by removing the words ''*Celtis* (hackberry)''.

Done in Washington, DC, this 10th day of June 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–14248 Filed 6–15–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–15–0063; FV16–930–1 FR]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2015–16 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, 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 2015–16 crop year under the marketing order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (order). The Board locally administers the marketing order and is comprised of producers and handlers of tart cherries operating within the production area. This action establishes the proportion of tart cherries from the 2015 crop which may be handled in commercial outlets at 80 percent free and 20 percent restricted. In addition, this rule increases the carry-out volume of fruit to 55 million pounds for this season. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Effective June 17, 2016.

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 Email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, 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 Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final 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, hereinafter referred to as the ''order.'' 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 Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This final 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 final rule establishes free and restricted percentages for tart cherries for the 2015–16 crop year, beginning July 1, 2015, through June 30, 2016.

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 final rule establishes free and restricted percentages for the 2015–16 crop year. This rule establishes the proportion of tart cherries from the 2015 crop which may be handled in commercial outlets at 80 percent free and 20 percent restricted. In addition, this rule increases the carry-out volume of fruit to 55 million pounds for calculation purposes for this season. This action should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The carry-out and the final percentages were recommended by the Board at a meeting on September 10, 2015.

Section 930.51(a) of the order provides 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 of the regulations. Exempt purposes include, in part, the development of new products, sales into new markets, the development of export markets, and charitable contributions. For cherries held in reserve, handlers would be responsible for storage and would retain title of the tart cherries.

Under § 930.52, only those districts with an annual average production of at least six million pounds are subject to regulation, and any district producing a crop which is less than 50 percent of its annual average is exempt. The regulated districts for the 2015–16 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) are not regulated for the 2015–16 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. The Board, aware of this economic relationship, focuses on using the volume control provisions in the order to balance supply and demand to stabilize industry returns.

Pursuant to § 930.50 of the order, 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 their 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 average free sales for 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 set by the Board after considering market circumstances and needs. Section 930.50(a) specifies that desirable carry-out can range from zero to a maximum of 20 million pounds but also authorizes the Board to establish an alternative carry-out figure with the approval of the Secretary.

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) of the order, 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 the 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 25, 2015, and computed an optimum supply of 208 million pounds for the 2015–16 crop year using the average of free sales for the three previous seasons and a desirable carry-out of 20 million pounds. The Board then subtracted the estimated carry-in of 104 million pounds from the optimum supply to calculate the production needed from the 2015–16 crop to meet optimum supply. This number, 104 million pounds, was subtracted from the Board's estimated 2015–16 production of 233 million pounds to calculate a surplus of 129 million pounds of tart cherries. The surplus minus the market growth factor was then divided by the expected production in the regulated districts (228 million pounds) to reach a preliminary restricted percentage of 48 percent for the 2015–16 crop year.

In discussing the calculations, industry participants commented that a carry-out of 20 million pounds would not meet their needs at the end of the season before the new crop is available. To address that concern, the Board recommended increasing the desirable carry-out to 55 million pounds for the 2015–16 season. This change increased the optimum supply to 243 million pounds, reducing the surplus to 94 million pounds.

The Board also discussed whether the substantial reduction of supply in 2012 due to weather was still a factor that needed to be considered in determining optimum supply. Because of the crop loss, sales in 2012–13 reached only 123 million pounds, nearly 100 million pounds less than 2013–14 sales. In the previous two seasons when considering volume regulation, the Board recommended economic adjustments to account for the substantial decline in 2012. The Board again determined that the market required additional tonnage to continue recovering sales and voted to make an economic adjustment of 43 million pounds to increase the available supply of tart cherries. The Board also complied with the market growth factor requirement by adding 19 million pounds (188 million pounds times 10 percent, rounded) to the free supply.

The economic adjustment and market growth factor further reduced the preliminary surplus to 32 million pounds. After these adjustments, the preliminary restricted percentage was recalculated as 14 percent (32 million pounds divided by 228 million pounds).

The Board met again on September 10, 2015, to consider establishing final volume regulation percentages for the 2015–16 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 2015–16 season was 249 million pounds, 25 million pounds above the Board's June estimate. In addition, growers diverted 1 million pounds in the orchard, leaving 248 million pounds available to market. Using the actual production numbers, and accounting for the recommended increase in 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 104 million pounds from the optimum supply of 243 million pounds to determine 139 million pounds of 2015–16 production would be necessary to reach optimum supply. The Board subtracted the 139 million pounds from the actual production of 248 million pounds, resulting in a surplus of 109 million pounds of tart cherries. The surplus was then reduced by subtracting the economic adjustment of 43 million pounds and the market growth factor of 19 million pounds, resulting in an adjusted surplus of 47 million pounds. The Board then divided this final surplus by the actual production in the regulated districts (240 million pounds) to calculate a restricted percentage of 20 percent with a corresponding free percentage of 80 percent for the 2015–16 crop year, as outlined in the following table:

	Millions of pounds
Final Calculations:	
(1) Average sales of the prior three years	188
(2) Plus desirable carry-out	55
(3) Optimum supply calculated by the Board	243
(4) Carry-in as of July 1, 2015	104
(5) Adjusted optimum supply (item 3 minus item 4)	139
(6) Board-reported production	248
(7) Surplus (item 6 minus item 5)	109
(8) Total economic adjustments	43
(9) Market growth factor	19
(10) Adjusted surplus (item 7 minus items 8 and 9)	47
(11) Production from regulated districts	240
	Percent
Final Percentages:	
Restricted (item 10 divided by item 11 × 100)	20
Free (100 minus restricted percentage)	80

The primary purpose of setting restricted percentages is to 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 believes the available information indicates that a restricted percentage should be established for the 2015–16 crop year to avoid oversupplying the market with tart cherries. Consequently, based on its discussion of this issue and the result of the above calculations, the Board recommended final percentages of 80 percent free and 20 percent restricted by a vote of 16 in favor and 1 against.

During the discussion of the proposed restriction, some members expressed concern regarding competition from imported tart cherry juice concentrate. In particular, some were concerned that the additional volume from imports is not accounted for in the optimum supply formula, thus not capturing overall supply and demand. An economist from Michigan State University is working with the Board to assemble information on tart cherry imports. The Board also voted to establish an import committee to review the data on imports once it is available. Another member asserted that any restriction would adversely impact growers' ability to sell all of their fruit. One member also said that a 20 percent restriction seemed high given the moderate production in 2015.

One member noted that setting the restriction at 20 percent would aid in maintaining price stability, with another member reminding the Board of the importance of the order and volume control in avoiding oversupplying the market with tart cherries. One other member said it was also important to maintain a reserve in case of another crop disaster. Other members stated the demand adjustment and the recommended increased carry-out would put sufficient fruit on the market in the coming year.

After reviewing the available data and considering the concerns expressed, the Board determined that a 20 percent restriction with a carry-out volume of 55 million pounds meets sales needs and establishes some reserves without oversupplying the market. Thus, the Board recommended establishing final percentages of 80 percent free and 20 percent restricted. The Board could meet and recommend the release of additional volume during the crop year if conditions so warranted.

Final 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 action 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 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 600 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 $750,000, and small agricultural service firms have been defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS) and Board data, annual 2014–2015 tart cherry crop value was $106.745 million. Dividing this figure by the number of producers (600) yields an average annual receipts per producer estimate of about $178,000. Since this is well below $750,000, it can be concluded that most tart cherry producers are small producers, according to the SBA criteria. In 2014, The Food Institute estimated an f.o.b. price of $0.96 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Multiplying tart cherry utilized production of 300.3 million pounds by $0.96 yields a handler-level annual receipts estimate of $288.3 million. Dividing this figure by the number of handlers (40) yields an average annual receipts per handler estimate of about $7.2 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, tart cherry production in 2012 was 85 million pounds, 294 million pounds in 2013, and in 2014, production was 304 million pounds. Because of these fluctuations, the 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 as manufacturers do not easily substitute other fruits for tart cherry products. However, prices are very sensitive to changes in supply. Grower prices vary widely in response to the large swings in annual supply, ranging from a low of 7.3 cents per pound in 1987 to a high of 59.4 cents per pound in 2012.

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

This final rule establishes free and restricted percentages using an increased carry-out volume of 55 million pounds for the 2015–16 crop year under the tart cherry marketing order. This action establishes 2015–16 percentages of 80 percent free and 20 percent restricted. These percentages should stabilize marketing conditions and help improve grower returns by adjusting supply to meet market demand. This action regulates tart cherries handled in Michigan, New York, Utah, Washington, and Wisconsin. The authority for this action is provided for in §§ 930.51(a) and 930.52 of the order.

This rule will 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. The quantity that is available under this action is greater than 110 percent of the average quantity shipped in the prior three years.

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 industry role. Restricted fruit is utilized for new products, new domestic markets, and development of export markets. In 2014–15, these activities accounted for 21 million pounds in sales, nearly 14 million of which were exports.

Placing tart cherries into reserves is also a key part of balancing supply and demand. Although the industry must 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 allow the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to maintain and supply markets in years where 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.

In addition, the Board recommended an increased carry-out of 55 million pounds to reach an optimum supply of 243 million pounds. The recommended demand adjustment of an additional 43 million pounds will make the regulation less restrictive. Even with the recommended restriction, over 300 million pounds of fruit will be available to the domestic market. Consequently, it is not anticipated that this action will unduly burden growers or handlers.

While this action could result in some additional costs to the industry, these costs are more than 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 will likely be oversupplied, resulting in lower grower prices.

The three districts in Michigan, along with the districts in New York, Utah, Washington, and Wisconsin, are the restricted areas for this crop year with a combined total production of 240 million pounds. A 20-percent restriction means 192 million pounds are available to be shipped to primary markets from these five states. The 192 million pounds from the restricted districts, nearly 9 million pounds from the unrestricted districts (Oregon and Pennsylvania), and the 104 million pound carry-in inventory make a total of 305 million pounds available as free tonnage for the primary markets. This is similar to the 300 million pounds of total utilized production in 2014–15 and is less restrictive than the 12 percent restriction in 2011–12, which made just under 262 million pounds available. Further, the Board could meet and recommend the release of additional volume during the crop year if conditions so warranted.

Prior to the implementation of the order, grower prices often did not come close to covering the cost of production. The most recent costs of production determined by representatives of Michigan State University are an estimated $0.33 per pound. To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. 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 $0.03 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. The econometric model shows for every 1 million-pound increase in carry-in inventories, the average grower price decreases by $0.003 per pound.

Consumer prices largely do not reflect fluctuations in cherry supplies. Therefore, this rule 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 rule 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 action 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, benefit from the stabilizing effects of this restriction. In addition, the Board determined that increasing carry-out to 55 million pounds should provide processors enough fruit in the pipeline to meet market needs going into the next season.

The Board considered some alternatives in its preliminary restriction discussions that affected this recommended action. The first alternative concerned the average sales in estimating demand for the coming season, and the second alternative regarded the recommended carry-out figure.

Regarding demand, the Board began with the actual sales average of 188 million pounds. There was concern, however, that this value, which incorporated the weather-related crop failure of 2012, would result in an over-restrictive calculation. After considering options in the range of 40 million to 62 million pounds, the Board determined that an adjustment of 43 million pounds, would best meet the industry's sales needs. Thus the other alternatives were rejected and the Board recommended the 43 million pound economic adjustment.

Regarding the carry-out value, the Board previously considered a one-year increase above the 20 million pounds specified in the order to 50 million pounds. However, this season, Board members indicated the carry-out should be even higher to facilitate processing at the end of the crop year. Board members suggested a series of options from 35 million to 60 million pounds of carry-out. Some felt the additional fruit is necessary while others were more cautious about having additional fruit on the market at the time of harvest, which may put downward pressure on prices. In conjunction with the demand adjustment, the Board reached a consensus and recommended the Secretary increase the maximum carry-out to 55 million pounds for the 2015–16 season.

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 MI, NY, PA, OR, UT, WA, and WI. 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 action 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. One of the public comments received did address the initial regulatory flexibility analysis. A review of that comment is included below as part of the review of all public comments received.

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.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the June 25, 2015, and September 10, 2015, meetings were public meetings, and all entities, both large and small, were able to express views on this issue. A proposed rule concerning this action was published in the **Federal Register** on December 17, 2015 (80 FR 78677). 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 30-day comment period ending January 19, 2015, was provided to allow interested persons to respond to the proposal.

Nine comments were received during the comment period in response to the proposal. The commenters included both growers and handlers, and all opposed the proposed regulation. Most of the points made by the commenters had been discussed prior to the Board's vote.

All nine comments made reference to imported tart cherries. Five commenters referred to figures retrieved from the Foreign Agricultural Service's Global Agricultural Trade System (GATS) which indicates an equivalent of more than 200 million pounds of cherries were imported into the U.S. in 2014. The data do indicate that imported volume has grown. The data also indicate tart cherry juice concentrate represents by far the largest segment of imports, which according to the data, has experienced tremendous growth beginning in 2012.

Several of the commenters indicated that the proposed volume restriction would restrict their chances of gaining some of the market share attributed to imports. While the domestic industry did experience a significant drop in shipments in 2012 due to a weather-related incident, with the exclusion of that year, shipments of domestic tart cherries have routinely exceeded 200 million pounds. Given the rapid increase in the import volume of tart cherry juice and the level of domestic shipments, the vast majority of imported tart cherry juice is going to new markets not previously served by the domestic industry. At the very least, these new markets serviced by imported tart cherry juice far exceed the estimated 47 million pounds of tart cherries that are restricted by this regulation.

As such, should domestic handlers decide to compete in these new markets, in most cases, restricted cherries could be used and the handler could receive diversion credits under the new market and market expansion provisions provided under the order. Further, the Board recently recommended and USDA approved extending diversion credits for new markets and market expansion from one year to three years, creating even more opportunities to pursue these new markets. Consequently, handlers would have ample opportunity to compete for new markets using restricted cherries while continuing to service traditional markets with free cherries. In addition, should industry efforts cause demand to exceed existing volume, the Board could meet and recommend the release of additional volume.

Two other commenters indicated imported tart cherries should be included as part of the process for calculating free and restricted percentages. Under the order, when computing and determining percentages for recommendation to USDA, the Board is required to give consideration to several factors, including supplies of competing commodities and the economic factors having a bearing on the marketing of cherries. The Board's discussion regarding establishing free and restricted percentages for this season included considerable discussion regarding imported tart cherries. Concerns were raised and discussed regarding the impact of imported tart cherries on the market and how that would impact a restriction. Discussion also included an estimated price point for imported tart cherry juice as a comparison with that for domestic production. It was also indicated that the Board was working to assemble additional information on tart cherry imports, and the Board voted to establish an import committee to review the import data.

However, in the Board discussion, comments were also made regarding the importance of the order and volume control in avoiding oversupplying the market with tart cherries. The importance of maintaining a reserve in case of another crop failure was also expressed. Other Board members also stated the demand adjustment and the recommended increased carry-out would put sufficient fruit on the market for the coming year. After discussing the available information on imported product and considering the concerns expressed, no motion was made to include an additional adjustment to the calculations based on imported fruit.

Two comments stated that restriction has contributed to the loss of market share to imports, with one requesting USDA reconsider the economic impact of this regulation under the RFA with regard to imports. Aside from a reference to the volume of imported tart cherries, neither comment provided any data in support of these assertions. Based on the information from GATS, tart cherry imports increased substantially beginning in 2012. For 2011–12, the season prior to the season with a significant crop loss due to weather, total shipments were 264 million pounds, with 213 million pounds coming from free sales. While the reduced crop for 2012–13 season had total sales of 123 million pounds, in the years following, sales rebounded to 222 million pounds in 2013–14 (no volume restriction) and to 235 million pounds total sales in 2014–15. The free sales for 2014–15 season were actually higher than those for the 2011–12 season at 214 million.

The utilization numbers as reported by NASS have also been increasing from approximately 230 million pounds in 2011 to 290 million pounds in 2013 and to 298 million pounds in 2014. In addition, the NASS numbers show the frozen segment, the largest utilization of domestic tart cherries, increased from 154 million pounds in 2011 to 158 million pounds in 2013 and to 199 million pounds in 2014. The other category as reported by NASS, which includes juice and dried cherries, also experienced higher numbers in 2013 and 2014 as compared to 2011. The 92 million pounds and 66 million pounds utilized in 2013 and 2014, respectively, are substantially higher than the 37 million pounds utilized in 2011.

Further, with the exception of the 2012–13 season, grower prices have been relatively stable. In 2011, NASS reported an average grower price for domestic tart cherries of $0.298. For the years 2013 and 2014, NASS reported average grower prices of $0.359 and $0.355 per pound, respectively. The figures for 2015 are not yet available.

As previously stated, the demand for tart cherries is inelastic, such that changes in price have minimal effect on total sales volume, yet prices are very sensitive to changes in supply. This is demonstrated by the sharp jump in average grower price in 2012 to $0.594 per pound with the substantial decrease in domestic supply. Given that GATS reports tart cherry imports as approximately 217 million pounds in 2012, 130 million pounds in 2013, and 244 million pounds in 2014, there should be some downward pressure on price if this volume was competing directly for the same market serviced by the domestic tart cherry industry. However, this is not reflected in the available numbers. Using the available sales, utilization, and price data, it is difficult to determine what, if any, specific impact imports have had on the market for domestic tart cherries.

Five comments mentioned the financial burden a restriction would place on growers and handlers. The RFA analysis recognizes that the industry bears a cost when keeping product off the market, but also notes that the gains in prices and stability outweigh that cost. Further, placing tart cherries into reserves is an important part of balancing supply and demand. Although there are costs associated with the storage of fruit, reserves allow the industry to mitigate the impact of oversupply in large production years while helping to maintain and supply markets in years where production falls short or when there are crop failures as in 2002 and 2012. Storage costs are more than offset by the increase in price during years with a short crop as evidenced by the average grower price in 2012. As mentioned in the RFA, the restriction is expected to have a positive impact on price.

While none of the comments suggested an alternative percentage for a volume restriction, most suggest that there should be no restriction. The formula used by the Board in recommending the proposed regulation is based, in part, on sales history. The Board has taken steps to recommend putting additional fruit on the market as carry-out both in this action and in the previous season's regulation. In 2014, the Board recommended a carry-out of 50 million pounds yet entered the 2015–16 season with 104 million pounds of unrestricted fruit on the market. In addition, USDA purchased over 20 million pounds of cherry products since 2014 as emergency surplus purchases, and has announced plans to purchase up to 60 million pounds of tart cherry products in 2016.

For the 2015–16 season, the Board recommended an increase in the carry-out to 55 million pounds, made an economic adjustment to add an additional 43 million pounds to available supply, and an additional 19 million pounds were added under the market growth factor. With these adjustments, there are more than 305 million pounds of tart cherries available for free sales for 2015–16. This volume exceeds total sales from 2011–12 of both free and restricted cherries of 264 million pounds, the last season before the crop disaster in 2012. Further, the order provides numerous alternatives for the use of restricted fruit, such as handler diversion, for complying with the recommended restriction. Therefore, as stated in the RFA, it is not anticipated that this action will unduly burden growers or handlers.

Additional concerns raised in the comments pertain to pending litigation or issues not applicable to the proposed rule.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

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 Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping tart cherries from the 2015–16 crop. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

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 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 part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 930.151 is revised to read as follows:

§ 930.151 Desirable carry-out inventory.

For the crop year beginning on July 1, 2015, the desirable carry-out inventory, for the purposes of determining an optimum supply volume, will be 55 million pounds.

■ 3. Section 930.256 is revised to read as follows:

§ 930.256 Free and restricted percentages for the 2015–16 crop year.

The percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2015, which shall be free and restricted, respectively, are designated as follows: Free percentage, 80 percent and restricted percentage, 20 percent.

Dated: June 13, 2016.

Dana Coale,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2016–14333 Filed 6–15–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–3085; Airspace Docket No. 15–ASW–2]

Amendment of Class E Airspace; Little Rock, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Little Rock Air Force Base (AFB), Little Rock, AR. Airspace reconfiguration is necessary due to closure of the air traffic control tower and associated approaches at Dennis F. Cantrell Field, Conway, AR. Dennis F. Cantrell Field is being removed from the airspace designation and legal description as it is no longer needed to describe the boundaries of Little Rock AFB. This action is necessary to ensure continued safety within the National Airspace System (NAS). Additionally, the geographic coordinates for Little Rock AFB and Saline County Airport, Benton, AR, are being adjusted.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5857.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Little Rock AFB, Little Rock, AR.

History

On March 7, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend the Class E airspace at Little Rock Air Force Base, AR. The air traffic control tower at Dennis F. Cantrell Field, Conway, AR, has closed thereby removing Dennis F. Cantrell Field from the description for Little Rock AFB, (81 FR 11692), Docket No. FAA–2015–3085. Additionally, geographic coordinates for Little Rock AFB and Saline County Airport, Benton, AR, are adjusted. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA