

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 211 and 235

RIN 0584-AD96

Fresh Fruit and Vegetable Program

Correction

In proposed rule document 2012-4181 appearing on pages 10981-10997 in the issue of February 24, 2012, make the following correction:

On page 10981, in the second column, after **FOR FURTHER INFORMATION CONTACT**, the contact information is corrected to read "Julie Brewer, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 634, Alexandria, Virginia 22302; telephone: (703) 305-2590."

[FR Doc. C1-2012-4181 Filed 3-2-12; 8:45 am]

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AO-370-A9; 11-0093; AMS-FV-10-0087; FV10-930-5]

Tart Cherries Grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Order No. 930

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to Marketing Order No. 930 (order), which regulates the handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and provides growers and

processors with the opportunity to vote in a referendum to determine if they favor the changes. These amendments were proposed by the Cherry Industry Administrative Board (CIAB), which is responsible for local administration of the order. These amendments would revise: Section 930.10, the definition of "Handle"; Section 930.50, "Marketing Policy" and Section 930.58, "Grower Diversion Privilege." The amendments are intended to improve the operation and administration of the order.

DATES: The referendum will be conducted from March 19, 2012 to March 30, 2012. The representative period for the purpose of the referendum is July 1, 2010 through June 30, 2011.

FOR FURTHER INFORMATION CONTACT:

Parisa Salehi, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington DC 20250-0237; Telephone: (202) 270-9918, Fax: (202) 720-8938, or Email:

Parisa.Salehi@ams.usda.gov; or Martin Engeler, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 2202 Monterey Street, Fresno, California 93721; Telephone: (559) 487-5110, Fax: (559) 487-5110, or Email: *Martin.Engeler@ams.usda.gov*.

Small businesses may request information on this proceeding by contacting Laurel May, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250-0237; Telephone: (202) 205-2830, Fax: (202) 720-8938, Email: *Laurel.May@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on March 4, 2011, and published in the March 14, 2011, issue of the **Federal Register** (76 FR 13528). The Recommended Decision was issued on November 3, 2011 and published in the November 9, 2011, issue of the **Federal Register** (76 FR 69673).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

Preliminary Statement

The proposed amendments are based on the record of a public hearing held April 20 and 21, 2011, in Grand Rapids, Michigan, and a second public hearing held April 26, 2011, in Provo, Utah. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act", and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900). Notice of this hearing was published in the **Federal Register** on March 14, 2011 (76 FR 13528). The notice of hearing contained the proposal submitted by CIAB and one proposal by the Agricultural Marketing Service (AMS). This action is a decision addressing the amendments listed in the notice of hearing.

The proposed amendments were recommended by CIAB and submitted to USDA on September 22, 2010.

The proposed amendments recommended by the CIAB are summarized below.

1. Amendment 1 would revise the term "handle" within the order. This proposal would revise existing section 930.10, Handle, to exclude handler acquisition of grower diversion certificates from definition of handle.

2. Amendment 2 would revise the "marketing policy" provisions in section 930.50 of the order so that grower-diverted cherries are not counted as production in the volume control formula.

3. Amendment 3 would revise the existing section 930.58, so grower-diverted cherries are not treated as actual harvested cherries.

In addition to the proposed amendments to the order, AMS proposed to making any additional changes to the order as may be necessary to conform to any amendment that may result from the hearings.

Upon the basis of evidence introduced at the hearings and the record thereof, the Administrator of AMS issued a Recommended Decision published in the **Federal Register** on November 9, 2011 (76 FR 69673). An opportunity to file written exceptions was provided through November 25, 2011. Two comments were received during that period. A comment was received on behalf of the Cherry