

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California grape 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.

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

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

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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2007 fiscal period began on January 1, 2007, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such period; (2) the industry could be shipping grapes beginning April 20, 2007; (3) the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (4) handlers are aware of this action which was unanimously recommended by the committee at a public meeting and is similar to other assessment rate actions issued in past years.

#### List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is proposed to be amended as follows:

#### PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR part 925 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 925.215 is revised to read as follows:

##### § 925.215 Assessment rate.

On and after January 1, 2007, an assessment rate of \$0.0200 per 18-pound

lug is established for grapes grown in a designated area of southeastern California.

Dated: April 27, 2007.

**Lloyd C. Day,**  
*Administrator, Agricultural Marketing Service.*

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#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 930

[Docket No. AMS-FV-06-0186; FV06-930-610 REVIEW]

#### Tart Cherries Grown in the States of Michigan, et al.; Section 610 Review

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Confirmation of regulations.

**SUMMARY:** This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of Marketing Order No. 930 regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

**ADDRESSES:** Interested persons may obtain a copy of the review. Requests for copies should be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938; or e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). The review may also be viewed online at: <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Unit 155, 4700 River Road, Riverdale, MD 20737; Telephone: (301) 734-5243, Fax: (301) 734-5275; or E-mail: [Patricia.Petrella@usda.gov](mailto:Patricia.Petrella@usda.gov) or [Kenneth.Johnson@usda.gov](mailto:Kenneth.Johnson@usda.gov).

**SUPPLEMENTARY INFORMATION:** Marketing Order 930, as amended (7 CFR part 930), regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601-674).

The tart cherry marketing order establishes the Cherry Industry Administrative Board (Board) as the administrative body charged with overseeing program operations. Staff is hired to conduct the daily administration of the program. The Board consists of 18 producer and handler members, plus one member who represents the public. There are seven grower members and seven handler members, and four members that can be either growers or handlers. Each member has an alternate. Members and alternate members are elected through a mail balloting process.

Currently, there are approximately 900 tart cherry growers and approximately 40 handlers. The majority of the growers and handlers may be classified as small entities. The regulations implemented under the order are applied uniformly to all size entities, and are designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** (64 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order 930, under criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the tart cherry marketing order in the February 21, 2006, issue of the **Federal Register** (71 FR 8810). The deadline for comments ended April 24, 2006. No comments were received.

The review was undertaken to determine whether the tart cherry marketing order should be continued without change, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the marketing order; (2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

The marketing order authorizes the following activities: Volume control in the form of free and restricted percentages and establishment of a reserve pool; production and processing

research, marketing research and development, and promotional activities; reporting requirements for collection and dissemination of production, shipment, and other marketing information; and quality control, including inspection requirements.

The volume control provisions of the order have helped stabilize supplies and prices of tart cherries. Recently, a generic domestic promotion program has been implemented with the intent of increasing consumer demand. The compilation and dissemination of aggregate statistical information collected from handlers is used by the industry to make informed production and marketing decisions.

Minimum quality standards and inspection requirements, and production and marketing research, have not been implemented by the industry but the marketing order contains provisions for such programs should the industry determine it would be beneficial to implement them. Funds to administer the marketing order are obtained from handler assessments.

Based on the potential benefits of the marketing order to producers, handlers, and consumers, AMS has determined that the order should continue without change.

In regard to complaints or comments received from the public regarding this review, USDA has not received any comments from interested parties on this action.

In considering the order's complexity, AMS has determined that the marketing order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for tart cherries.

The marketing order was established in 1996. Since its inception, AMS and the tart cherry industry have continuously monitored its operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of these evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The Board meets whenever needed, but at least bi-annually, to discuss the marketing order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a result, numerous

regulatory changes have been made over the years to address industry operation changes and to improve program administration. The marketing order has been amended three times since its inception and several changes to the administrative rules and regulations have been implemented over the years to ensure the program continues to meet the industry's needs.

Accordingly, AMS has determined that the tart cherry marketing order should be continued. The marketing order was established to help the tart cherry industry work with USDA to solve marketing problems. The marketing order continues to be beneficial to producers, handlers, and consumers.

AMS will continue to work with the tart cherry industry in maintaining an effective program.

Dated: April 27, 2007.

**Lloyd C. Day,**  
Administrator, Agricultural Marketing Service.

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 12, 23, 42, and 52

[FAR Case 2005-039; Docket 2007-0001;  
Sequence 2]

RIN 9000-AK69

### Federal Acquisition Regulation; FAR Case 2005-039, Use of Products Containing Recovered Materials In Service and Construction Contracts

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify language within the FAR on the use of products containing recovered materials, pursuant to the *Resource Conservation and Recovery Act of 1976*, and Executive Order 13101 "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition." The Councils are aware that Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management," revoked E.O. 13101; however, E.O. 13101 is not eliminated from Subpart 23.4 under this rule, as other conforming changes will

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before July 2, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2005-039 by any of the following methods:

<bullet> Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting "Federal Acquisition Regulation" as the agency of choice. At the "Keyword" prompt, type in the FAR case number (for example, FAR Case 2006-001) and click on the "Submit" button. Please include any personal and/or business information inside the document.

You may also search for any document by clicking on the "Advanced search/document search" tab at the top of the screen, selecting from the agency field "Federal Acquisition Regulation", and typing the FAR case number in the keyword field. Select the "Submit" button.

<bullet> Fax: 202-501-4067.

<bullet> Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

*Instructions:* Please submit comments only and cite FAR case 2005-039 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Clark, Procurement Analyst, at (202) 219-1813 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2005-039.

### SUPPLEMENTARY INFORMATION:

#### A. Background

DOD, GSA, and NASA propose to amend the Federal Acquisition Regulation (FAR) to clarify language within the FAR on the use of products containing recovered materials, pursuant to the *Resource Conservation and Recovery Act of 1976*, and Executive Order 13101 "Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition." The Councils are aware that Executive Order 13423, "Strengthening Federal Environmental, Energy, and Transportation Management," revoked E.O. 13101; however, E.O. 13101 is not eliminated from Subpart 23.4 under this rule, as other conforming changes will