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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Doc. No. AMS–SC–25–0617]

Sweet Cherries Grown in Designated Counties in Washington; Modification of Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the Washington Cherry Marketing Committee (Committee) to update the marketing order regulating the handling of sweet cherries grown in designated counties in Washington. This final rule increases the minimum size requirements for all sweet cherry varieties, except the Rainier, Royal Anne, and similar varieties, commonly referred to as ''light sweet cherries.'' In addition, this final rule removes one row count/row size designation, adds two new row count/row size designations, and revises the title of the table in the marketing order's pack requirements table.

DATES: Effective January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Virginia Tjemsland, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (503) 326–2724; or email: *Virginia.L.Tjemsland@usda.gov* or *Barry.Broadbent@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 final rule is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (Act), amending Marketing Order No. 923 (7 CFR part 923; the Order), regulating the handling of sweet cherries grown in designated counties of Washington. The Committee locally administers the Order and is comprised of growers and handlers of sweet cherries operating within the area of production.

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends existing Marketing Order No. 923, as amended (7 CFR part 923), Sweet Cherries Grown in Designated Counties in Washington, and is necessary for the continued operation of the Order. Additionally, this action is exempt from the requirements of Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' pursuant to section 5(c).

This final rule has been reviewed under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. The Agricultural Marketing Service (AMS) has determined this final 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 final rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This final rule is not intended to have a retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(c)(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 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. 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 not later than 20 days after the date of the entry of the ruling.

Under the Order, sweet cherries produced in designated counties in Washington are required to be inspected and are subject to grade, size, quality, maturity, pack, and container requirements. This final rule increases the minimum size requirements for all sweet cherry varieties, except the Rainier, Royal Anne, and similar varieties commonly referred to as ''light sweet cherries.'' In addition, this action removes one row count/row size designation and adds two new row count/row size designations to the Order's pack requirements.

Section 923.51 of the Order authorizes the Committee to recommend handling regulations to the Secretary. Section 923.52 of the Order authorizes the Secretary to establish such handling regulations. Further, § 923.53 authorizes the Committee to recommend the modification, suspension, or termination of handling regulations when it finds that industry conditions so dictate. Section 923.322 establishes the minimum grade, size, quality, maturity, pack, and container requirements for sweet cherries handled subject to the Order. Section 923.322(b) establishes the Order's minimum size requirements and § 923.322(d) details the Order's pack requirements. Section 923.322(d)(1) includes a table that specifies the allowable row count/row size designations and the corresponding allowable size variation tolerance.

The Committee held two public meetings on May 22, 2024, and August 27, 2025, to consider changes to the Order's handling regulations. The Committee determined that the production and marketing conditions of Washington sweet cherries have changed and that the Order's handling regulations should be modified accordingly pursuant to § 923.53. The Committee met on May 22, 2024, and recommended, with a vote of nine in favor, three opposed, and one abstention, modifying the Order's handling regulations by increasing the minimum size requirements for all cherries, except cherries of the Rainier, Royal Anne, and other similar ''light sweet cherries,'' in § 923.322(b)(2). The Committee met again on August 27, 2025, and unanimously recommended, with a vote of 12 in favor and none opposed, modifying the Order's pack requirements in § 923.322(d)(1). The Committee recommended these changes to the Order, discussed in further detail below, to allow the industry to maximize market returns and facilitate access to crop insurance for growers, when necessary.

Currently, the size requirements in the Order's handling regulations require that at least 90 percent of all sweet cherries, except the Rainier, Royal Anne, and other similar ''light sweet cherries,'' be a minimum size of 54/64 inch in diameter and not more than 5 percent, by count, may be less than 52/64 inch in diameter. In addition, under the Order's pack requirements, the minimum row count/row size designation is 12-row, with at least 90 percent, by count, not smaller than 54/64 inch in diameter. The largest defined row count/row size designation is an 8-row, with at least 90 percent, by count, not allowed to be smaller than 84/64 inch in diameter. Because there is no maximum size requirement defined by the Order's handling regulations, cherries larger than 84/64 inches in diameter were all designated as 8-row size/row count. For context, higher number row count/row size designations correlate to smaller fruit and lower number row count/row size designations correlate to larger size fruit.

At its meeting on May 22, 2024, the Committee recommended, with a vote of nine in favor, three opposed, and one in abstention, modifying the Order's handling regulations by increasing the minimum size requirements for all cherries, except cherries of the Rainier, Royal Anne, and other similar ''light sweet cherries,'' from 54/64 inch in diameter (12-row count/row size designation) to 57/64 inch in diameter (11½-row count/row size designation). Under the change, at least 90 percent, by count, of cherries in any lot will be required to measure not less than 57/64 inch in diameter, and not more than 5 percent, by count, could measure less than 54/64 inch in diameter. Additionally, the Committee recommended eliminating the 12-row count/row size designation from the table in the Order's pack requirements to conform with the minimum size requirement increase to 57/64 inch in diameter (11½-row count/row size). The three members opposed did not believe the recommendation would be good for industry and would limit growers' ability to market all their fruit, as in some very specific circumstances, 12-row count/row size designated sweet cherries can be marketed. The abstaining member wanted additional time to consider the recommendation.

According to the Committee, small size cherries ranging from 54/64 to 57/64 inch in diameter (12-row count/row size) account for approximately 1 to 2 percent of the Washington sweet cherry market annually. In addition to making up a very small percentage of sweet cherry volume, small size cherries usually command a lower market price, which can create competition with the larger size fruit which is also produced within the production area. Further, during difficult crop years when weather events adversely impact yield and fruit size, growers are often required to pick and deliver their 12-row count/row size cherries to handlers to qualify for crop insurance coverage, even if picking the smaller size cherries is not economically viable. This is because crop insurance adjustors typically require harvesting all ''marketable'' fruit prior to submission of a crop insurance claim, even though the smaller size cherries have little market value to the grower or the handler. For these reasons, the Committee believes that increasing the minimum size requirement to 57/64 inch in diameter and eliminating the corresponding 12-row count/row size designation in the Order's pack requirements will be beneficial to the industry by preventing low value, small size cherries from competing in the market against larger, more valuable fruit, and by reducing crop insurance barriers for growers following weather-induced crop losses.

At its public meeting on August 27, 2025, the Committee recommended, with a vote of 12 in favor and none opposed, to further modify the Order's handling regulations by adding two new row count/row size designations to the Order's pack requirements. The rule will add a 7½-row count/row size designation, with a minimum 88/64 inches in diameter, and a 7-row count/row size designation, with a minimum 92/64 inches in diameter. Prior to this action, number 8-row count/row size (minimum 84/64 inches in diameter) and larger sweet cherries are marketed without further size definition, making it difficult for industry to differentiate and capitalize on the larger size fruit. The Committee believes that adding the two larger size designations will benefit growers and handlers of larger size sweet cherries and facilitate industry's desire to market larger size cherries in export markets at premium prices.

Therefore, this final rule amends the size requirements in § 923.322(b)(2) by increasing the minimum size requirement from 54/64 inch in diameter to 57/64 inch in diameter. Additionally, at least 90 percent, by count, of cherries in any lot are required to measure not less than 57/64 inch in diameter, and not more than 5 percent, by count, could measure less than 54/64 inch in diameter. Further, this final rule amends the table in § 923.322(d)(1) by removing the 12-row count/row size designation in Column 1, as well as the corresponding minimum 54/64 inch in diameter from same row in Column 2. This action also adds two new row count/row size designations to the table: a 7½-row count/row size in Column 1, with a corresponding minimum 88/64 inches in diameter in Column 2, and a 7-row count/row size in Column 1, with a corresponding minimum 92/64 inches in diameter in Column 2. Lastly, this final rule makes a technical amendment to revise the title of the pack requirements table to ''Table 1 to Paragraph (d)(1).'' For the reasons stated above, the changes in the Order's handling regulations effectuated by this final rule are expected to benefit growers, handlers, and consumers of Washington sweet cherries.

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 final 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 are unique regulations in that they are brought about through group action of typically small entities acting on their own behalf.

There are approximately 1,350 sweet cherry growers in the production area and approximately 35 handlers subject to regulation under the Order. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural producers as those having annual receipts equal to or less than $3,500,000 (NAICS code 111339, Other Noncitrus Fruit Farming) (13 CFR 121.201). Small agricultural service firms, which include sweet cherry handlers, were defined by the SBA as those having annual receipts equal to or less than $34,000,000 (NAICS code 115114, Postharvest Crop Activities).

Based on data from the National Agricultural Statistics Service (NASS) and the Committee, the reported average price growers received for Washington sweet cherries during the 2024–2025 fiscal year was approximately $1.08 per pound, with total shipments of around

404,000,000 pounds. Using the average grower price, shipment information, and the number of growers, and assuming a normal distribution, the majority of growers have estimated average annual receipts of significantly less than $3,500,000 ($1.08 multiplied by 404,000,000 pounds equals $436,320,000, divided by 1,350 growers equals $323,200 per grower). Thus, the majority of growers may be classified as small entities.

According to data from Market News and production records from the Committee, the average price of Washington sweet cherries handled during the 2024–2025 fiscal year was approximately $3.17 per pound, with total shipments of around 404,000,000 pounds. Based on the average terminal market price, shipment information, and the number of handlers, and assuming a normal distribution, the majority of Washington sweet cherry handlers have estimated average annual receipts of more than $34,000,000 ($3.17 multiplied by 404,000,000 pounds equals $1,280,680,000 divided by 35 handlers equals $36,590,857 per handler). Thus, the majority of handlers may be classified as large entities.

This final rule increases the minimum size requirements in the Order's handling regulation for all varieties, other than Rainier, Royal Anne, and other similar ''light sweet cherries,'' from 54/64 inch in diameter to 57/64 inch in diameter. Under the amended minimum size, at least 90 percent, by count, of cherries in any lot are required to measure not less than 57/64 inch in diameter, and not more than 5 percent, by count, could measure less than 54/64 inch in diameter. The Committee stated that 12-row (54/64 inch in diameter) cherries regularly make up only 1 to 2 percent of the market and are not readily accepted by wholesale buyers, nor do handlers often choose to pack and market such small cherries. The Committee further indicated that in years of weather-induced crop failure or yield reductions, crop insurance requires growers to harvest and deliver all the cherries produced, even if handlers prefer that growers forgo delivery of small size fruit and growers prefer to avoid the expense and burden of harvesting such small size fruit. With this final rule, sweet cherry growers will be able to harvest fruit that is more readily accepted by handlers and successfully market such fruit to consumers. This action is expected to facilitate growers' use of crop insurance in years when the industry experiences a crop failure.

Additionally, this action modifies the table in the Order's pack requirements by eliminating the 12-row count/row size designation, which corresponds to a minimum diameter of 54/64 inches, and by adding a 7½-row count/row size designation (88/64 inches in diameter) and a 7-row count/row size designation (92/64 inches in diameter). With this final rule, the minimum row count/row size designation will be 11½, with a corresponding minimum diameter of 57/64 inches. The Committee believes that adding these size designations will allow the industry to differentiate markets and facilitate marketing large size, premium sweet cherries.

This final rule will not impose any additional costs to industry. It is not expected to have a significant impact positively or negatively on the revenue of handlers or growers of Washington sweet cherries, as the quantity of small, 12-row size fruit produced is very small, the market currently does not readily accept 12-row size sweet cherries, and such cherries, when produced and marketed, command lower prices than larger size fruit. The quality of sweet cherries is not expected to be significantly affected by this change and increasing the minimum size of marketable cherries aligns with what the market already demands. In addition, the Order's minimum grade requirements will not be impacted by this final rule and the addition of the larger size designations in the Order's pack requirements is expected to have a neutral or positive impact.

The Committee considered alternatives to the recommended changes made at its May 2024 meeting, including taking no action and continuing to regulate according to the requirements currently in effect under the Order. The Committee considered increasing the minimum size requirement to 61/64 inch in diameter and raising the minimum row count/row size designation to 11-row, thereby eliminating both the 12 and 11½-row count/row size designations from the pack requirements. However, the Committee determined that the minimum size and minimum row count/row size designation, as established through this action, will be in the best interest of the growers, handlers, and consumers of Washington sweet cherries. As such, the Committee rejected all other alternatives.

Further, the Committee also discussed alternatives to the recommended changes made at the August 2025 meeting, including taking no action and continuing to regulate based on the recommended proposals presented at the May 2024 meeting. The Committee considered various options regarding defining larger size fruit in the table in the Order's pack requirements. However, the Committee ultimately determined that adding two additional row count/row size designations (7½-row (88/64 inches in diameter) and 7-row (92/64 inches in diameter)) will be in the best interest of the growers, handlers, and consumers of Washington sweet cherries and rejected all other alternatives.

Committee meetings are widely publicized throughout the Washington sweet cherry industry and designated area. All interested persons are invited to attend meetings and participate in Committee deliberations. Like all Committee meetings, the May 22, 2024, and August 27, 2025, meetings were public meetings and all entities, both large and small, were able to express their 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 the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Fruit Crops. This final rule does not require changes to the current information collection. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large sweet 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 final rule.

A proposed rule concerning this action was published in the **Federal Register** on March 9, 2026 (91 FR 11181). Copies of the proposed rule were provided to all Washington sweet cherry handlers. In addition, the proposal was made available through the internet by AMS and the Office of the Federal Register via *https://www.regulations.gov.* A 30-day comment period ending April 8, 2026, was provided for interested persons to respond to the proposal. AMS received nine comments during the comment period. Of the nine comments received, six expressed support for the proposal. One of the six supporting comments also proposed that cherries imported into the production area should also be required to meet the same requirements as cherries produced in the production area. However, because the Order does not regulate cherries imported into the production area, this recommendation is not permissible under the Order and, accordingly, no changes have been made to the rule as proposed.

Of the three remaining comments, one did not address the merits of the proposal and two expressed neither support nor opposition for the proposal but instead provided additional recommendations. One of those two comments recommended further increasing the minimum size requirement by removing up to and including the 11-row count/row size designation from the Order's pack requirements. As previously noted, the Committee had considered increasing the minimum row count/row size designation to 11-row, thereby eliminating both the 12 and 11½-row count/row size designations from the pack requirements. Ultimately, however, the Committee determined that the 11½-row minimum size and minimum row count/row size designation, as established by this final rule, would be in the best interest of the growers, handlers, and consumers of Washington sweet cherries because 11½ and 11-row sweet cherries remain marketable. Accordingly, AMS made no changes to the rule as proposed based on this recommendation.

The second comment recommended that AMS establish an effective date of January 1, 2027, so as not to disrupt the industry with mid-season handling regulation changes and to provide industry adequate time to prepare, implement, and support compliance with the final rule. AMS agrees with this request to minimize mid-season disruptions to industry and has established an effective date of January 1, 2027 for this final rule.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee, public comments, and all other available information, AMS has determined that this final rule is consistent with and effectuates the purposes of the Act.

List of Subjects in 7 CFR Part 923

Cherries, Fruits, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS amends 7 CFR part 923 as follows:

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for part 923 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend § 923.322 by revising paragraph (b)(2), and by in paragraph (d)(1) revising the title of the table and the table itself to read as follows:

§ 923.322 Washington cherry handling regulation.

* * * * *

(b) * * *

(2) For all other varieties, at least 90 percent, by count, of the cherries in any lot shall measure not less than 57/64 inch in diameter and not more than 5 percent, by count, may be less than 54/64 inch in diameter.

* * * * *

(d) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (d)(1)

Column 1, row count/row size	Column 2 diameter (inches)
7	92/64
7½	88/64
8	84/64
8½	79/64
9	75/64
9½	71/64
10	67/64
10½	64/64
11	61/64
11½	57/64

* * * * *

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–17510 Filed 8–26–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–SC–24–0061]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2024–2025 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a recommendation from the Cherry Industry Administrative Board (Board) to establish free market tonnage percentages (free percentages) and restricted percentages for the 2024–2025 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 2024–2025 crop which may be handled in commercial outlets. This action should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Effective September 28, 2026.

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.*

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 final rule is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), amending Marketing Order No. 930 (7 CFR part 930; the Order), regulating tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. 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.

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends existing Marketing Order No 930, as amended (7 CFR part 930), Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, and is necessary for the continued operation of Marketing Order No. 930. Additionally, this action is exempt from the requirements of Executive Order 14192, ''Unleashing Prosperity Through Deregulation,'' pursuant to section 5(c).

This final rule has been reviewed under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' which requires Federal agencies to consider whether their rulemaking actions would have Tribal implications. The Agricultural Marketing Service (AMS) has determined this final rule is