use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on April 2, 2018 (83 FR 14203). Copies of the proposed rule were also mailed or sent via facsimile to all Florida citrus handlers. The proposal was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending May 3, 2018, was provided for interested persons to respond to the proposal. One comment was received during the comment period. The commenter was in favor of the regulation. Accordingly, no changes will be made to the rule as proposed, based on the comment 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 Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangerines, Pummelos.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND PUMMELOS GROWN IN FLORIDA

■ 1. The authority citation for part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 905.235 is revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 2017, an assessment rate of $0.02 per 4/5-bushel carton or equivalent is established for Florida citrus covered under the Order.

Dated: July 2, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–14514 Filed 7–5–18; 8:45 a.m.]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–SC–17–0047; SC17–930–1 FR]

Tart Cherries Grown in the States of Michigan, et al.; Revision of Exemption Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Cherry Industry Administrative Board (Board) to revise the exemption provisions for tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This rule changes the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit. This action also permits handlers to apply for previously awarded projects if the original handler has not begun the project within a year of approval and provides an expedited approval option for some market expansion activities. This final rule also contains a formatting change to subpart references to bring the language into conformance with the Office of Federal Register requirements.

DATES: Effective August 6, 2018.

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) 324–3775, 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 Richard Lower, 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: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule, 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 Marketing Order No. 930, as amended (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. Part 930 (referred to as 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 Board locally administers the Order and is comprised of growers and handlers operating in the production area, and one public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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 changes the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit from three years to five years. This action also permits handlers to apply for previously awarded projects if the original handler has not made a

shipment within a year of approval and provides an expedited approval option for some market expansion activities. These changes are intended to encourage participation in new product, new market development, and market expansion, expand demand, and make the approval process more efficient. The Board unanimously approved these changes at a meeting on May 3, 2017. The Secretary approves these recommendations.

Section 930.59 authorizes the Secretary to implement handler diversion. When volume regulation is in effect, handlers may fulfill any restricted percentage requirement in full or in part by acquiring diversion certificates or by voluntarily diverting cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve.

Section 930.159 specifies methods of handler diversion, including using cherries or cherry products for exempt purposes prescribed under § 930.162. Section 930.162 establishes the terms and conditions of exemption that must be satisfied for handlers to receive diversion certificates for exempt uses. Section 930.162(b) defines the activities which qualify for exemptions under new product, new market development, and market expansion, and the period for which they are eligible for diversion credit. New products include foods or other products in which tart cherries or tart cherry products are incorporated which are not presently being produced on a commercial basis. New market development and market expansion activities include, but are not limited to, sales of cherries into markets that are not yet commercially established, product line extensions, and segmentation of markets along geographic or other definable characteristics.

The Order provides for the use of volume regulation to stabilize prices and improve grower returns during periods of oversupply. At the beginning of each season, the Board examines production and sales data to determine whether a volume regulation is necessary and, if so, announces free and restricted percentages to limit the volume of tart cherries on the market. Free percentage cherries can be used to supply any available market, including domestic markets for pie filling, water packed, and frozen tart cherries. Restricted percentage cherries can be placed in reserve or be used to earn diversion credits as prescribed in §§ 930.159 and 930.162. These activities include, in part, the development of new products, new market development and market expansion, as well as charitable contributions, and the development of export markets.

Changes in the domestic tart cherry market have provided challenges to the industry, particularly competition from imported cherry products. In the last five years, there has been a large increase in the volume of imported tart cherry products, especially tart cherry juice. The Board sees this juice market as a potential opportunity to expand domestic sales. The Board assigned a series of committees to look into the growing juice market, examine the impact of imports on the overall domestic market, and recommend actions that could help domestic handlers capture market share. As a result, the Board determined that the use of diversion credit for new markets and market expansion would be a valuable way to reach the developing juice market that is not currently utilizing domestic cherries.

The Board believes the development of new products, new markets, and expansion of current markets is an important part of the future success of the domestic industry. These projects are intended to help expand the market for tart cherries and increase demand. The Board sees the use of diversion credits as a way to encourage these activities using restricted fruit that may otherwise be stored or destroyed.

However, creating new products or establishing sales in new markets can be costly and time consuming. In 2015, the Board increased the eligibility for diversion credit from one year to a three-year duration for new market and market expansion projects and saw participation rise. In discussing this change, Board members indicated that three years still did not provide handlers sufficient time to develop and recoup the costs and resources needed to establish one of these projects. The Board believes extending the availability of diversion credits from three years to five years will provide an incentive for handlers to develop new products, new markets, or to expand current markets.

Further, the Board believes that allowing handlers to apply for previously approved projects that the original handler has not fulfilled creates additional opportunities and promotes project development. Under the Order's regulations, diversion credit for new products and new markets can be issued for tart cherries for products or markets not yet commercially established. Consequently, the Board's administrative policy was that once a handler received approval for a project, that handler maintained the right to commercially develop that project for up to three years. However, the Board found that sometimes a handler received approval for a project but never started it. The Board recommended that if the handler does not start the project, it should still be considered a new product, new market, or market expansion activity, and other handlers should be able to apply for the previously approved project.

With this change, a handler has one year to begin the new product, new market, or market expansion project with the opportunity to appeal for an additional six months if necessary to start the project. If the handler does not make a shipment and does not request an extension, other handlers can apply to develop the project. The Board believes this will encourage handlers to start projects or create the opportunity for another handler to apply for the project if the original handler cannot, or chooses not to, proceed.

Finally, the Board recommended an expedited option so that diversion credit for some market expansion projects can be approved once the sales information is verified by Board staff, rather than review by a subcommittee. Adding this flexibility to the approval process will make it faster for diversion applicants.

Currently, all types of new market, new product, and market expansion projects are reviewed by an appointed subcommittee, which can take considerable time. In hope of handlers participating in these activities, the Board recognized the need to make the approval process faster so that decisions on applications are not delayed. In the case of market expansion projects, some tart cherry handlers are competing to source buyers not currently using domestic tart cherries rather than developing a new product. The Board believes these transactions are vital to expanding sales of tart cherries. The Board recommended an expedited option for these market expansion projects. Diversion credit for these transactions will be approved once a statement from a buyer of its intent to use domestic tart cherries in products not currently supplied by the domestic market is sent to and verified by Board staff, rather than after review by the Board subcommittee. The Board believes this will expedite the approval process for diversion requests.

The Secretary finds, from the recommendation and supporting information supplied by the Board, that changing the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit tends to

effectuate the declared policy of the Act and so approves these changes.

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 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, 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 and Board data, the average annual grower price for tart cherries during the 2016–17 season was approximately $0.273 per pound. With total utilization at around 323.1 million pounds for the 2016–17 season, the total 2016–17 crop value is estimated at $88.2 million. Dividing the crop value by the estimated number of producers (600) yields an estimated average receipt per producer of $147,000. This is well below the SBA threshold for small producers. In 2016, The Food Institute estimated a free on board (f.o.b.) price of $0.83 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Multiplying the f.o.b price by total utilization of 323.1 million pounds results in an estimated handler-level tart cherry value of $268 million. Dividing this figure by the number of handlers (40) yields estimated average annual handler receipts of $6.7 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.

This rule revises § 930.162 by changing the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit from three years to five years. This action also permits handlers to apply for previously awarded projects if the original handler has not made a shipment within one year of approval, and provides an expedited approval option for some market expansion activities. These changes are intended to encourage handlers to participate in new product, new market, and market expansion activities, to expand demand, and make the approval process more efficient. The authority for these actions is provided in § 930.59.

It is not anticipated that this rule will impose additional costs on handlers or growers, regardless of size. Rather, this action should help handlers receive better returns on their new market development and market expansion projects by extending the time period that handlers can receive diversion credit for those activities. This provides more opportunity for handlers to recover the time and resources required to establish these projects.

In addition, extending the number of years that these marketing projects are eligible for diversion credits may provide incentive for handlers to develop these programs and may enable additional sales, which could improve returns for growers and handlers. Board members indicated that three years does not provide handlers enough time to develop and recover the costs and resources needed to implement one of these projects. The Board expects increasing the time frame will provide an incentive for additional handlers to participate in these exempt activities. Additionally, the changes open up the opportunity for another handler if the original handler does not carry out an approved project. Creating a longer window for use of restricted fruit and making the process accessible to more handlers should help the industry in its efforts to expand demand.

Finally, this action changes the process by which handlers receive approval for market expansion projects that involve tart cherry handlers competing to source buyers not currently using domestic tart cherries. The Board believes this will help expand sales of tart cherries. The Board recommended that diversion credit for these sales transactions be approved once the sales information is verified by Board staff, rather than after review by the subcommittee. The Board believes this will expedite the approval process for these types of diversion requests.

The Board does not believe that these changes significantly impact the calculations for free and restricted percentages. These changes are intended to facilitate projects that create future sales opportunities. The effects of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

Regarding alternatives to this action, the Board considered a number of options in its discussion, including leaving the length of time that new product, new market, and market expansion programs are eligible for handler diversion credit unchanged. However, given the increased participation rate since the time period was extended in 2015 and the Board's desire to quickly open up opportunities for handlers, the Board preferred to expand the opportunity for diversion credits for these projects. Therefore, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no 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.

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.

Further, the Board's meetings were widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the May 3, 2017, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning this action was published in the **Federal**

Register on January 2, 2018 (83 FR 77). Copies of the proposed rule were sent via email to Board members and tart cherry handlers. The proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending February 1, 2018, was provided to allow interested persons to respond to the proposal.

Two comments were received. Both commenters urged adoption of the changes, noting the Board had worked hard on this proposal and had listened to the industry as part of the process. 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 Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation of the Board 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.

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.

[Subpart Redesignated as Subpart A]

■ 2. Redesignate ''Subpart—Order Regulating Handling'' as ''Subpart A—Order Regulating Handling''.

[Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Administrative Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements

■ 4. In § 930.162:

■ a. Revise the sentences at the end of paragraphs (b)(1) and (b)(2);

■ b. Redesignate paragraphs (c)(3),(4), and (5) as paragraphs (c)(4),(5), and (6);

■ c. Add new paragraph (c)(3); and

■ d. Add paragraph (h).

The revisions and additions read as follows:

§ 930.162 Exemptions.

* * * * *

(b) * * *

(1) * * * In addition, the maximum duration of any credit activity is five years from the date of the first shipment.

(2) * * * In addition, shipments of tart cherries or tart cherry products in new market development and market expansion outlets are eligible for handler diversion credit for a period of five years from the handler's date of the first shipment into such outlets.

* * * * *

(c) * * *

(3) When applying to the Board for an exemption for the use of domestic tart cherry products in markets not currently served by the domestic industry, handlers may provide a verifiable statement from the buyer of its intent to use domestic tart cherry products to the Board staff for review in lieu of review by the subcommittee as detailed in paragraph (d) of this section. A verifiable statement is defined as a written statement from the buyer that it will use domestic tart cherries in products or markets not currently supplied by domestic sources, which will be reviewed and documented by Board staff.

* * * * *

(h) *Extensions and transfers.* (1) If no shipments are made within the first year of any approved exemption project from the date of approval, new applications for a similar project (same market or product) are eligible for approval; *provided that,* handlers with an approved exemption project have the opportunity to apply to the subcommittee for a six-month extension of this time period.

(2) For projects granted extensions, if no shipment is made prior to the end of the extension period, new applications for the same market or project are eligible for approval.

[Subpart Redesignated as Subpart C]

■ 5. Redesignate ''Subpart—Assessment Rates'' as ''Subpart C—Assessment Rate''.

Dated: July 2, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–14516 Filed 7–5–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 212

[Docket No: USCBP–2016–0003]; [CBP Decision No. 18–06]

RIN 1651–AB09

Elimination of Nonimmigrant Visa Exemption for Certain Caribbean Residents Coming to the United States as H–2A Agricultural Workers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This finalizes interim amendments to the Department of Homeland Security's (DHS) regulations, published in the **Federal Register** on February 8, 2016, that eliminated the nonimmigrant visa exemption for certain Caribbean residents seeking to come to the United States as H–2A agricultural workers and the spouses or children who accompany or follow these workers to the United States. As a result of the interim final rule, these nonimmigrants are required to have both a valid passport and visa. The Department of State (DOS) revised its regulations in a parallel interim final rule and is issuing a parallel final rule to adopt all interim changes as final.

DATES: This rule is effective on August 6, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie E. Watson, U.S. Customs and Border Protection, Office of Field Operations, (202) 325–4548, or via email at *Stephanie.E.Watson@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 8, 2016, DHS published an interim final rule (IFR) in the **Federal Register** (81 FR 6430) requiring a British, French, or Netherlands national, or a national of Barbados, Grenada, Jamaica, or Trinidad and Tobago, who has his or her residence in British, French, or Netherlands territory located in the adjacent islands of the Caribbean area, or in Barbados, Grenada, Jamaica, or Trinidad and Tobago, to obtain a valid, unexpired visa if the alien is proceeding to the United States as an H–2A agricultural worker. The IFR also