

**UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Fruit and Vegetable Programs
Washington DC Marketing Field Office
4700 River Road Unit 155 Suite 2A04
Riverdale, MD 20737**

TART CHERRY COOPERATIVE BALLOT

TO TART CHERRY COOPERATIVE ASSOCIATIONS OF PRODUCERS:

A public hearing was held in Rochester, New York, on _____, 20____, in Grand Rapids, Michigan, on _____, 20____, in Kennewick, Washington on _____ 20____, and Salt Lake City, Utah, on _____, 20____, to consider proposed amendments to marketing agreement and order No. 930 (order), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The Department of Agriculture (USDA) has announced his decision to provide tart cherry producers with an opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments will not be made effective unless favored by at least two-thirds of the producers voting in this referendum or by producers representing at least two-thirds of the volume of tart cherries voted in the referendum.

The proposed amendments include making districts subject to volume regulations that produced more than 6 million pounds per year, rather than only those districts producing more than 15 million pounds per year; making shipments of cherry juice and juice concentrate to certain markets eligible to receive diversion credit; changing provisions related to alternate Board members serving for absent members at Board meetings; making all cherry shipments subject to assessments; and eliminating the requirement that different assessment rates be established for different cherry products. Other amendments proposed by the Board pertain to allocation of Board membership; clarification of order provisions relating to exemption and diversion; release of cherries in the inventory reserve; and the use of crop estimates other than the official USDA crop estimate in developing the Board's marketing policy.

A Cooperative Referendum Ballot is attached. Also attached are:

- (1) Voting Instructions and Rules Governing the Eligibility of Cooperative Association of Producers to Vote;
- (2) News Release concerning the Referendum;
- (3) Copy of the _____ 20____, Secretary's Decision and Referendum Order; and
- (4) An addressed envelope for returning the ballot -- no postage is required.

The referendum voting period is _____ through _____ 20____. Please vote promptly and return your ballot. Ballots arriving in envelopes postmarked later than _____ 20____, cannot be opened or counted. Each ballot will be held in strict confidence.

XXXXXX XXXXXX
Referendum Agent
(301) 734-5243



OMB No. 0581-0177

COOPERATIVE ASSOCIATION OF PRODUCERS REFERENDUM BALLOT

Marketing Order No. 930:
Tart Cherries Produced in Michigan, New York, Pennsylvania,
Oregon, Utah, Washington and Wisconsin

This referendum is being held to determine producer and processor support for the proposed amendments to Marketing Agreement and Order No. 930, regulating the handling of tart cherries produced in Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

Please read the attached **VOTING INSTRUCTIONS AND RULES GOVERNING COOPERATIVE ASSOCIATION OF PRODUCERS ELIGIBILITY TO VOTE** before completing this ballot. Additional ballots may be obtained by contacting the Washington DC Marketing Field Office at (301) 734-5243.

1. Do you favor reducing the 15 million pound threshold to 6 million pounds of annual production to determine which districts in the production area should be subject to regulation? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

2. Do you favor allocating Board membership among districts based on levels of production and whether a corresponding change should be made to the quorum requirements? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

3. Do you favor designating any alternate member to serve for a member at a Board meeting in the event that member and his or her alternate are unavailable? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

4. Do you favor clarifying the diversion and exemption provisions of the order by eliminating cross references among those provisions and adding general rulemaking authority to implement handler diversion provisions? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

5. Do you favor adding specific authority to the order to exempt or provide diversion credit for cherries exported to designated markets? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

6. Do you favor providing diversion credit for shipments of cherry juice and juice concentrate to established diversion markets? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

7. Do you favor adding specific authority for the transfer of diversion credits among handlers? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

8. Do you favor allowing grower diversions that take place in districts that are subsequently exempt from volume regulation qualify for diversion credit? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

9. Do you favor allowing cherries in the inventory reserve to be able to be released for use in only certain designated markets ? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

10. Do you favor applying the 10 percent reserve release for market expansion only during years when volume regulations are in effect ? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

11. Do you favor handlers paying assessments on all cherries handled, except for those that are diverted by destruction at a handler's facility and those covered by grower diversion certificates? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

12. Do you favor eliminating the requirement that differential assessment rates be established for various cherry products based on the volumes of cherries needed to produce those products and their relative market values? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

13. Do you favor allowing the Board to be able to use estimates other than the official USDA crop estimate in developing its marketing policy? Indicate your vote by placing an "X" in the appropriate block:

Yes

No

COOPERATIVE ASSOCIATION OF PRODUCERS - ELIGIBILITY STATEMENT

1. Please print the name, mailing address, and telephone number of the cooperative association voting this ballot:

_____ Cooperative Association Name _____ Telephone Number

_____ Street or P.O. Box Number _____ City _____ State _____ ZIP Code

2. Indicate the total volume of tart cherries in pounds that were produced from _____ **20** _____, through _____ **20** _____, by the member growers of this cooperative association: _____

3. Indicate the total number of acres represented by this ballot:

4. Indicate the total number of producers for which this cooperative association is casting this ballot:

5. _____
(Title of Person Authorized to Sign)

6. _____
Signature _____ Date

Your signature certifies that you have the authority to vote on behalf of the cooperative association of producers named herein and that the information provided on this ballot and all attachments hereto is accurate and correct to the best of your knowledge. Further, you hereby agree to submit supplementary evidence of such authority at the request of an agent of the Secretary of Agriculture.

The information provided in this ballot is required to determine voter eligibility and vote of tart cherry producers. Falsification of information on this government document may result in a fine of not more than \$10,000 or imprisonment for not more than five (5) years, or both (18 U.S.C. 1001).

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0177. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**VOTING INSTRUCTIONS AND RULES GOVERNING ELIGIBILITY OF
COOPERATIVE ASSOCIATIONS OF PRODUCERS TO VOTE**

- I. VOTING PERIOD:** _____, 20____ through _____ 20_____.
- II. PRODUCTION AREA:** The States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.
- III.** Tart Cherries means all tart/sour cherry varieties grown in the production area classified as *Prunus cerasus*, *Prunus cerasus* by *Prunus avium*, or *Prunus cerasus* by *Prunus fruticosa*.
- IV. ELIGIBILITY TO VOTE:** Any cooperative association of producers engaged in the marketing of tart cherries grown in the production area during the representative period of _____ 20____, through 20_____. Section 608c(12) of the Agricultural Marketing Agreement Act of 1937 provides, in part, that the Secretary of Agriculture shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in the marketing of the commodity covered by the subject marketing order, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers. Cooperative associations of producers are defined in the Capper-Volstead Act (7 U.S.C. 291, 192).

Producer is synonymous with grower, and means any person who produces tart cherries to be marketed in canned, frozen, or other processed form and who has a proprietary interest therein. Producer does not include a person who produces tart cherries to be marketed exclusively for the fresh market in an unpitted condition. Further, a producer is any individual, partnership, corporation, association, institution, estate, or other business unit that:

- A. Owns and farms land resulting in ownership of the tart cherries produced thereon,
- B. Rents and farms land resulting in ownership of all or a portion of the tart cherries produced thereon, or
- C. Owns land from which, as rental for such land, ownership is obtained of a portion of the tart cherries produced thereon. (A lienholder, cash landlord, or person having only a financial interest in the tart cherry crop is not eligible to vote.)

Each business unit, partnership, family enterprise, corporation, association, estate, or firm that is a member of the cooperative association of producers is entitled to one vote on the attached ballot.

ONLY ONE BALLOT MAY BE CAST BY EACH SEPARATE COOPERATIVE ASSOCIATION OF PRODUCERS.

VI. HOW TO VOTE:

- 1-2. Indicate whether the cooperative association of producers approves or disapproves the proposed amendments by placing an in the appropriate block on the attached ballot.
- 3. Complete the eligibility statement by providing the information requested. All information must be provided to ensure the validity of the ballot.
- 4. Attach to the ballot a list of tart cherry producers who are currently members of, stockholders in, or under contract with the cooperative association of producers named herein as of the date this ballot is cast, and who produced tart cherries for market during the representative period. For each such producer provide the following:
 - a. Address (street and house number, rural route number, city, state, ZIP Code).
 - b. Volume of tart cherries produced during the representative period in pounds.
 - c. Acreage of tart cherries during the representative period. Include the location of tart cherry acreage if different than the producers address.
- 5. Attach to the ballot a certified copy of the resolution of the Board of Directors authorizing the individual signing this ballot to so cast the ballot on behalf of the cooperative association of producers.
- 6. Mail the completed ballot, corporate resolution and all requested attachments to:

**UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
Washington DC MARKETING FIELD OFFICE
4700 River Road, Unit 155, Suite 2A04
Riverdale, Maryland 20737
(301) 734-5243**

BALLOTS MUST BE COMPLETED IN THEIR ENTIRETY AND POSTMARKED NO LATER THAN 20____, TO BE VALID.

FV-43A (08-03)

5 of 5