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the total primary inventory reserve does not exceed 50 million pounds. Handlers will be permitted to divert (at plant or with grower-diversion certificates) as much of the restricted percentage requirement as they deem appropriate, but may not establish a primary inventory reserve in excess of the percentage established by the Board for restricted cherries. In the event handlers wish to establish inventory reserve in excess of this amount, they may do so, in which case it will be classified as a secondary inventory reserve and will be regulated accordingly.

(j) *Inventory Reserve Release.* In years when inventory reserve cherries are available and when the expected availability of cherries from the current crop plus expected carryin inventory does not fulfill the optimum supply, the Board shall release not later than November 1st of the current crop year such volume from the inventory reserve as will satisfy the optimum supply.

(k) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996, as amended at 66 FR 35896, July 10, 2001; 67 FR 51714, Aug. 8, 2002]

§ 930.51 Issuance of volume regulations.

(a) Whenever the Secretary finds, from the recommendation and supporting information supplied by the Board, that to designate final free market tonnage and restricted percentages for any cherries acquired by handlers during the crop year will tend to effectuate the declared policy of the Act, the Secretary shall designate such percentages. Such regulation designating such percentage shall fix the free market tonnage and restricted percentages, totaling 100 percent, which shall be applied in accordance with this section, §§ 930.55, 930.57 and 930.59 to cherries grown in regulated districts, as determined under § 930.52, and handled during such fiscal period.

(b) The Board shall be informed immediately of any such regulation issued by the Secretary, and the Board shall promptly give notice thereof to handlers.

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(c) That portion of a handler's cherries that are restricted percentage cherries is the product of the restricted percentage imposed under paragraph (a) of this section multiplied by the tonnage of cherries, originating in a regulated district, handled, including those diverted according to § 930.59, by that handler in that fiscal year.

(d) The Board, with the approval of the Secretary, shall develop rules and regulations which shall provide guidelines for handlers in complying with any restricted tonnage requirements, including, but not limited to, a grace period of at least 30 days to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates.

[61 FR 49942, Sept. 24, 1996 as amended at 67 FR 51714, Aug. 8, 2002]

§ 930.52 Establishment of districts subject to volume regulations.

(a) The districts in which handlers shall be subject to any volume regulations implemented in accordance with this part shall be those districts in which the average annual production of cherries over the prior 3 years has exceeded 6 million pounds. Handlers shall become subject to volume regulation implemented in accordance with this part in the crop year that follows any 3-year period in which the 6-million pound average production requirement is exceeded in that district.

(b) Handlers in districts which are not subject to volume regulation would only be so regulated to the extent that they handled cherries which were grown in a district subject to regulation as specified in paragraph (a) of this section. In such a case, the handler must place in inventory reserve pursuant to § 930.55 or § 930.57 or divert pursuant to § 930.59 the required restricted percentage of the crop originating in the regulated district.

(c) Handlers in districts not meeting the production requirement described in paragraph (a) of this section in a given year would not be subject to volume regulation in the next crop year.

(d) Any district producing a crop which is less than 50 percent of the average annual processed production in that district in the previous five years

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would be exempt from any volume regulation if, in that year, a restricted percentage is established.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

[61 FR 49942, Sept. 24, 1996 as amended at 67 FR 51714, Aug. 8, 2002]

§ 930.53 Modification, suspension, or termination of regulations.

(a) In the event the Board at any time finds that, by reason of changed conditions, any regulations issued pursuant to §§930.44 or 930.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Board or from other available information, that a regulation issued pursuant to §§930.44 or 930.51 should be modified, suspended or terminated with respect to any or all shipments of cherries in order to effectuate the declared policy of the Act, the Secretary shall modify, suspend, or terminate such regulation.

§ 930.54 Prohibition on the use or disposition of inventory reserve cherries.

Cherries that are placed in inventory reserve pursuant to the requirements of §930.50, §930.51, §930.55, or §930.57 shall not be used or disposed of by any handler or any other person except as provided in §930.50 or in paragraphs (a), (b), or (c) of this section.

(a) If the Board determines that the total available supplies for use in commercial outlets are less than the amount needed to meet the demand in such outlets, the Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for such use.

(b) The Board may recommend to the Secretary that a portion or all of the primary and/or secondary inventory reserve cherries be released for sale in certain designated markets. Such designated markets may be defined in terms of the use or form of the cherries.

(c) Cherries in the primary and/or secondary inventory reserve may be

used at any time for uses exempt from regulation under §930.62.

[67 FR 51714, Aug. 8, 2002]

EDITORIAL NOTE: At 66 FR 232, Jan. 3, 2001, in §930.54 paragraph (a), the word "normal" was suspended indefinitely.

§ 930.55 Primary inventory reserves.

(a) Whenever the Secretary has fixed the free market tonnage and restricted percentages for any fiscal period, as provided for in §930.51(a), each handler in a regulated district shall place in his or her primary inventory reserve for such period, at such time, and in such manner, as the Board may prescribe, or otherwise divert, according to §930.59, a portion of the cherries acquired during such period.

(b) The form of the cherries, frozen, canned in any form, dried, or concentrated juice, placed in the primary inventory reserve is at the option of the handler. Except as may be limited by §930.50(i) or as may be permitted pursuant to §§930.59 and 930.62, such inventory reserve portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary: *Provided*, That in converting cherries in each lot to the form chosen by the handler, the inventory reserve obligations shall be adjusted in accordance with uniform rules adopted by the Board in terms of raw fruit equivalent.

(c) Inventory reserve cherries shall meet such standards of grade, quality, or condition as the Board, with the approval of the Secretary, may establish. All such cherries shall be inspected by USDA. A certificate of such inspection shall be issued which shall show, among other things, the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks (can codes or lot stamp), and a certification that the cherries meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board, at the place designated by the Board, a copy of the certificate