

every State except Maine, Idaho, and Alaska, as well as in Asia, Australia, and Europe.

Record evidence shows that any handling of tart cherries in market channels, including intrastate shipments, exerts an influence on all other handling of such cherries and vice versa. Therefore, because such handling directly burdens, obstruct, or affect such commerce, all handling of tart cherries grown in the proposed production area should be covered by the order, and an order for tart cherries is supported by evidence in the record of hearing.

2. The proponents have demonstrated that there is a need for a marketing order for tart cherries. The proponents testified that the following conditions currently exist in the industry: (1) Large variations in annual supplies of tart cherries; (2) significant fluctuations in prices to farmers with gross receipts being below the industry's costs in seven of the last eight years; (3) disruptive variations in the price of cherries to food manufacturers; and (4) concomitant difficulties in developing both domestic and export markets.

Large variations in annual supply tend to lead to disorderly marketing. The proponents testified that a recent study at Michigan State University of annual variation in production of major horticultural crops indicates that the average production of tart cherries fluctuated to a greater extent than any other crop, including almonds, hazelnuts, and raisins. These are other storable commodities that have Federal marketing order programs. The fluctuations in production are due mainly to climatic factors over which neither growers nor processors have any control. In recent history, tart cherry production increased by 63 percent from 1986 to 1987 and by 82 percent from 1991 to 1992. These surges in production are far beyond the capability of the market to absorb. The result is not only the production year impact of depressed grower prices during the production year, but large carryover inventories which can depress prices for the next three to five years. The proponents provided an example as follows: Production averaged about 242 million pounds in 1988 and 1989 following the 1987 surge in production of 359 million pounds, yet grower prices only averaged 16.7 cents per pound during the period, which is well below the estimated cost of production of 20 cents per pound. The inventory carryin did not reach tolerable levels until July 1, 1991. The mere presence of these large carryin inventories had a depressing effect on processor and grower prices.

As a result of these fluctuations in price, growers receive less income for their tart cherries. Several growers testified that they are, in most years, unable to recoup their production costs of tart cherries. Also, very few new growers have entered the tart cherry industry because the initial investment in an orchard is substantial and yields little or no income for the first five years. In addition, cherry trees have a commercially productive life of 15 to 20 years, which means they are treated as a long term investment. Thus, it is not economically sound to plant and/or uproot cherry trees in response to changing supply or demand conditions. Further, while some growers have diversified their holdings to include other crops, record evidence shows that most growers do not have other viable economic alternatives for their land, due to the unsuitability of the land for crops for which additional demand exists. This most often results in the continued maintenance of and/or replanting of tart cherry trees.

In the crop years 1986 through 1993, tart cherry production ranged from a high of 359 million pounds in 1987 to a low of 189.9 million pounds in 1991. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Tart cherry growers testified about the hardships they have endured over the seven years since the demise of the prior Federal tart cherry marketing order. Growers testified that the average prices of 12 to 17 cents per pound which they received do not come close to covering the costs of production for the vast majority of tart cherry growers. There was testimony that production costs for most growers range between 20 to 22 cents per pound, which is well above average prices received.

Proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because such growers and handlers have been going out of business over most of the last eight years due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between success and failure because small growers and handlers tend to be less capitalized than larger ones. One Michigan grower testified that his family operates a 184 acre fruit farm and about one-half of their annual farm production comes from tart cherries. While the value of the farm is \$450,000 (includes value of land, \$15 per fruit

tree, and \$55,000 for depreciated equipment), their tart cherry crop has returned a negative \$1,240 per year, on average, over the past seven years. There are no funds left for the grower's labor and no return on the grower's investment. This grower has only been able to stay in business because of the income from other crops such grower produces and off-farm income.

Another grower testified that some growers do not own harvesting equipment. In most years, all the money such growers earn from their cherries is spent on hiring someone else to harvest their cherries. To further demonstrate economic difficulties faced by the tart cherry industry, a representative from a cooperative testified that, in 1994, the cooperative was unable to make a monthly payment to growers because of the large crop and the necessary storage and interest costs that the cooperative incurred. One Michigan grower testified that in 1985, there were 2,000 tart cherry growers; today (1995), due to the economic hardships, there are 1,190 growers.

The prior order had a grower owned reserve pool that was controlled by the Board. The Board had the authority to establish prices for sales of reserve pool cherries to handlers. There were often disagreements on the Board as to what price should be established for reserve pool cherries. One reason for the demise of the order was that the price the Board established for reserve pool cherries was often higher than cherries being sold into the marketplace. Therefore, the reserve was not disposed of and continued to grow into a large, high priced surplus. Proponents testified that the proposed order should have a limit on the volume of cherries which could be stored in the inventory reserve. They also testified that handlers, and not the Board, should be responsible for pricing and selling the reserve once it is released. This would provide an incentive to handlers to place good quality cherries into the reserve, avoiding a previous problem of some handlers placing low quality cherries into the reserve—cherries which handlers did not have to repurchase when reserve cherries were offered for sale. Based on such considerations, the proponents believe that the proposed order would work significantly better than the previous order.

An economist for the proponents testified that tart cherry growers and handlers would benefit from the proposed order and that consumers would benefit from the order's stabilization of supplies and prices. When supplies and prices are stabilized, manufacturers should more readily