primary and secondary inventory reserve. The inventory reserve would be the sole property of the handlers who place products into the reserve. The proponents testified that this represents a significant improvement over ownership of the reserve by growers under the previous order. It is the proponent's view that handler ownership should help market forces determine the sales of released reserve cherries. Record evidence shows that handlers should be able to place cherries in their inventory reserve in any processed form. This would include individually quick frozen (IQF), canned product, frozen 5 plus 1 (25 pounds of cherries to 5 pounds of sugar), concentrated juice, dried product, etc. It was explained at the hearing that handlers would make individual business decisions as to the processed form in which they would wish to store their inventory reserve. This would allow maximum flexibility for handlers in meeting their restricted percentage requirements and storing inventory reserve cherries.

The proponents testified that, at the end of the processing season during which there is volume control, a regulated handler would be required to have an established inventory reserve and/or have proof of diversion of that handler's total restricted percentage requirement. It would not matter whether that handler actually processed and packed such inventory reserve cherries, or whether the handler purchased the cherries from a different handler within the regulated area and stored them at that location, as long as proper documentation is provided to the Board.

The proponents also testified that authority should be added to the order to allow a grace period for handlers to set up their inventory reserves after the processing season. This would allow handlers to appropriately document cherries that are being placed in the inventory reserve and to compile any applicable diversion certificates. In the proponents brief, a grace period of 30 days was specified. The Board, with the approval of the Secretary, would be able to establish rules and regulations to provide guidelines for handlers in complying with any restricted tonnage requirements. In view of the foregoing, these proposals relative to the industry reserve should be adopted and are included in this decision as proposed.

In addition, the record supports order authority for a handler bonding requirement. This would be another mechanism by which handlers would be able to comply with the restricted tonnage percentage, if established. The

Board would establish a date by which the inventory reserve must be established by each regulated handler. A bonding requirement would allow that date to be deferred if the handler obtains a bond equivalent to the value of the cherries such handler would have placed in the inventory reserve. Testimony did not provide details as to how this particular provision would be applied. However, the USDA is including the provision in the proposed language. The bonding requirement is similar to authority under other marketing order programs. The Board, with the approval of the Secretary, could develop rules and regulations which provide guidelines to implement the bonding authority.

The proposed order should require that the maximum percentage of restricted cherries which may be established as a primary inventory reserve not exceed 50 million pounds. Handlers should also be authorized to establish individual inventory reserves in excess of the 50 million pounds that would be classified as a secondary reserve. The proponents testified that the 50 million pound cap would help prevent an exceedingly large reserve from having a dampening effect on the market for tart cherries. Also, a very large inventory reserve would cost more to store over an extended period of time. A larger reserve may not be sold in time to offset the high investment of storing the reserve.

A witness testified and offered an alternative of 75 million pounds as the inventory reserve cap instead of the proposed 50 million pound cap. The witness testified that 75 million pounds would work better. Because of lack of testimony to support this alternative, the 50 million pound cap would remain as proposed by the proponents.

Inventory Reserve—General

Once a restricted percentage is established, each handler could establish an inventory reserve to meet such handler's restricted percentage. As previously discussed, handlers would be able to place cherries in any form in the reserve. Each handler's reserve portion would be computed by taking the sum of the multiplication of the weights of cherries in each lot of cherries the handler handled during the fiscal period by the restricted percentage. Rules and regulations would establish the manner in which processed products would be converted to raw fruit equivalents for each type of storable product.

The record indicates that a handler's equity in the primary inventory reserve could be transferred to another person.

A handler could elect to do this if such handler has no storage area remaining to store a primary inventory reserve. A handler would have to notify the Board if this authority is to be utilized. In addition, handlers would be encouraged to have written agreements with growers who deliver cherries to them. Such agreements could include provisions describing how the restricted percentage cherries delivered to the handler would be handled and what share, if any, the grower would have in the eventual sale of any inventory reserve cherries. Such agreements could also cover grower reimbursement for the sale of primary inventory reserve cherries.

Testimony at the hearing indicated that the Board could require reserve cherries to meet certain standards of grade, quality, or condition. All unprocessed cherries would be inspected by the USDA prior to placing them in an inventory reserve. A certificate of such inspection would show 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, and a certification that the cherries meet the prescribed standard.

All inspection costs of inventory reserve cherries would be paid by the Board. The USDA considered modifying this provision to provide that inspection costs be paid by the individual handler placing cherries in the inventory reserve. This would then be similar to the modification to the proposed order regarding storage costs to be paid by the regulated handler rather than by a separate storage assessment on all handlers. However, after further examination of the record, the USDA has determined that the industry as a whole would benefit by providing quality standards for cherries to be placed in the inventory reserve and later released to be sold in the marketplace. The proponents offered testimony that setting quality standards for inventory reserve cherries would be a benefit to the entire industry. Therefore, it would be appropriate for the Board to pay for inspection. The inspection costs would be paid from the administrative assessment fund.

The record does not indicate any specific quality standard for the inventory reserve. Thus, it should be the Board's responsibility to establish, with the approval of the Secretary, such quality standards. Promptly after inspection and certification, each handler would submit a copy of the certificate of inspection to the Board.

A witness testified that inspection on the inventory reserve should not be