

STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS

In the Matter of Suspending the Sour Cherry Marketing
Order Pursuant to Sections 16-Y and 16-Z of Urban
Development Corporation Act 174/68 and Section 202.13 of
Title One of the Official Compilation of Codes, Rules
and Regulations of the State of New York

**NOTICE OF
SUSPENSION**

PRELIMINARY STATEMENT

The Sour Cherry Marketing Order ("SCMO") is set forth in Title One of the Official Compilation of Codes, Rules, and Regulations of the State of New York ("1 NYCRR") Part 202 and was promulgated to create new markets and maintain existing markets for sour cherries. The SCMO provides, inter alia, for the establishment of a sour cherry advisory committee, to offer advice on the proper administration of the SCMO. As provided in section 16-Y(3)(e) of the Urban Development Corporation Act 174/68 ("UDCA"), the president of Empire State Development ("ESD") is authorized to suspend the operation of the SCMO, upon the advice and consent of the SCMO Advisory Committee, for a period of not longer than one growing and marketing season upon finding that the purposes of UDCA section 16-Y are deemed unnecessary during such season.

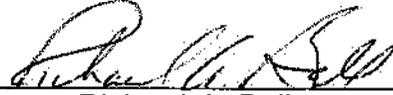
FINDINGS

The Commissioner of Agriculture and Markets, delegated by the president of ESD to make the following findings, hereby determines, after consulting with the SCMO Advisory Committee, that the purposes for which the SCMO was promulgated, set forth in UDCA 16-Y section 16-Y(3)(c), are deemed unnecessary during the 2021-2022 growing and marketing season, based on the following:

- 1) The number of known growers of sour cherries in the State has declined significantly since 2017, thus significantly reducing the assessments collected pursuant to the provisions of the SCMO, which has, in turn, precluded funding of projects to create new markets and maintain existing markets for sour cherries to the same extent as was done prior to 2017;
- 2) Due to the presence of European Cherry Fruit Flies, a quarantine has been placed upon the export of sour cherries from high-production areas including Niagara, Erie, and Orleans Counties, with the possibility of Wayne County being included in the near future (one of the highest-production counties for sour cherries). This quarantine will adversely affect the sale of sour cherries and will, in turn, result in severely diminished SCMO assessment collections, thereby lessening the impact of the SCMO;
- 3) The impacts of the Covid-19 pandemic on sour cherry markets during the current and subsequent growing seasons are yet to be fully realized. A suspension of the SCMO will allow time to evaluate impacts more thoroughly.

CONCLUSION

Based upon the foregoing, I, Richard A. Ball, duly delegated by the President of ESD to make the following determination pursuant to UDCA section 16-Y (3)(e), hereby temporarily suspends the operation of the Sour Cherry Marketing Order, for the 2021-2022 growing and marketing season.



Richard A. Ball

Commissioner of Agriculture and
Markets of the State of New York