

with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the January 8 and 9, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on these issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this final rule on small businesses, and none were received.

The assessment rate, interest rate and late payment charge established in this interim final rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although the assessment rate, interest rate and late payment charge will be effective for an indefinite period, the Board will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment and interest rates and late payment charge. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment or interest rates or late payment charge is needed. Further rulemaking would be undertaken as necessary. The Board's 1997-98 budget has already been approved by the Department to allow the Board to expend funds that they have borrowed. Budgets for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning parts of this action was issued by the Department on June 27, 1997, and published in the **Federal Register** on July 3, 1997 (62 FR 36020). Copies of the proposed rule were also mailed or sent

via facsimile to all tart cherry handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This interim final rule invites comments on an assessment rate and establishment of late payment and interest charges on delinquent assessments. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers have received and are still receiving 1997-98 crop cherries from growers, the fiscal period began July 1, and the assessment rate applies to all cherries received during the 1997-98 and subsequent fiscal periods; (2) the Board has been operating using borrowed funds and needs revenue to repay such funds and to continue administering the program; and (3) handlers are aware of this rule, which was recommended at a public meeting.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR Part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR Part 930 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new subpart—Administrative Rules and Regulations and a new section 930.141 are added to read as follows:

Subpart—Administrative Rules and Regulations

§ 930.141 Delinquent assessments.

(a) Pursuant to § 930.41, the Board shall impose an interest charge on any

handler whose assessment payment has not been received within 30 days from the due date of October 1 of each crop year. The interest rate shall be a rate of one percent per month and shall be applied to the unpaid assessment balance for the number of days all or any part of the unpaid balance is delinquent beyond the 30-day payment period. In addition to the interest charge, the Board shall impose a late payment charge on any handler whose payment charge has not been received within 90 days from the due date of October 1. The late payment charge shall be 10 percent of the unpaid balance.

(b) *Due date for the 1997-98 fiscal period.* For the 1997-98 fiscal period, the due date for assessments shall be November 30, 1997. Any interest charge for late assessment payments shall be accrued 30 days after the November 30 due date and any late fee shall be accrued 90 days after the November 30 due date.

3. A new subpart—assessment rates and a new section 930.200 are added to read as follows:

Subpart—Assessment Rates

§ 930.200 Handler assessment rate.

On and after the effective date of this rule, the assessment rate imposed on handlers shall be \$0.0025 per pound of cherries handled for tart cherries grown in the production area and utilized in the production of tart cherry products other than juice, juice concentrate, or puree. The assessment rate for juice, juice concentrate, and puree products shall be \$0.0125 per pound.

Dated: October 17, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97-28130 Filed 10-20-97; 2:01 pm]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1412

RIN 0560-AF25

Amendment to the Production Flexibility Contract Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the production flexibility contract regulations found at 7 CFR part 1412.

The amendments add a final date for producers to designate payment shares and provide supporting documentation to be eligible to earn contract payments in a fiscal year when payment shares have not been designated in such fiscal year; change the dates by which a producer or owner must inform county committee of changes in interest; add a final date for producers to request advance payments; clarify cash lease provisions; change the provisions for determining whether a lease is a cash lease or a share lease with respect to combination leases; and change the date by which all landowners, tenants, and sharecroppers failing to reach an agreement regarding the division of contract payments for a fiscal year must execute a contract to be eligible to receive the contract payment for that fiscal year.

DATES: *Effective Date:* October 23, 1997. Comments on this rule must be received on or before November 24, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Scotty M. Abbott, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517, telephone 202-720-5422, Internet address: Sabbott@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 161(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281) indicates that the Secretary is to issue regulations without respect to the notice and comment provisions of 5 U.S.C. 553 and other statutory and regulatory requirements. However, the Commodity Credit Corporation is requesting comments on the amendments to the regulations. Accordingly, this interim final rule is effective upon publication in the **Federal Register**, with 30 days for the submission of comments.

Environmental Evaluation

An Environmental Evaluation with respect to the proposed rule has been completed. It has been determined that this action will not have significant

adverse effects on environmental factors such as wildlife habitat, water quality, air quality, land use, or appearance. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1412 set forth in this rule were previously approved under OMB Control Number 0560-0025. An information collection notice was published in the **Federal Register** (62 FR 27216) on May 19, 1997. No comments were received regarding this notice. A revised information collection package has been submitted to OMB.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion of Changes

This rule amends the production flexibility contract regulations as follows:

Section 1412.201 Production flexibility contract.

This rule adds a final date for producers to designate payment shares and provide supporting documentation to be eligible to earn contract payments in a given fiscal year when payment shares have not been designated in such fiscal year. All producers sharing in the contract payment on a farm, whose payment shares have not been designated for such fiscal year must sign a new contract designating payment shares, and provide supporting documentation no later than August 1 of such fiscal year to be eligible to earn a contract payment in such fiscal year.

Section 1412.207 Succession-in-interest to a production flexibility contract.

This rule changes the dates a producer or owner must inform the county committee of changes in interest. A producer or owner must inform the county committee of changes in interest by August 1 of the fiscal year in which the change is made if producers on the contract remain the same but payment shares change; or no later than August 1 of such fiscal year, if a new producer is being added to the contract.

Section 1412.302 Contract payment provisions.

This rule adds a final date to request advance payments for fiscal year 1998, and each subsequent fiscal year. To receive the advance payment for fiscal year 1998, and each subsequent fiscal year, all producers sharing in the contract payment on the farm must, no later than 15 days prior to the final date to issue the advance payment:

- (1) Sign the contract designating payment shares and provide supporting documentation, if applicable; and
- (2) Request the advance payment.

Section 1412.303 Sharing of contract payments.

This rule clarifies that a lease is a cash lease, if the lessor receives only a guaranteed sum certain cash payment, or fixed quantity of the crop. This rule also changes provisions with respect to combination leases. Combination leases are leases that contain provisions for both a guaranteed amount such as a fixed dollar amount, or quantity and a share of a crop or crop proceeds. Combination leases include those leases that provide for the greater of a guaranteed amount, or share of the crop or crop proceeds. The amendment provides that all combination leases shall be considered share leases for fiscal year 1998, and later fiscal years.

Section 1412.304 Provisions relating to tenants and sharecroppers.

This rule changes the date by which all landowners, tenants and sharecroppers failing to reach an agreement regarding the division of contract payments for a fiscal year, must execute a contract to be eligible to receive the contract payment for such fiscal year. If the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county committee shall make the payment at a later date if all persons eligible to receive a share of the contract payment, have executed a contract no later than August 1 of that fiscal year, and subsequently agree to the division of contract payment.

List of Subjects in 7 CFR Part 1412

Contract acreage, Contract payments, Production flexibility contract, Succession-in-interest.

Accordingly, 7 CFR part 1412 is amended as follows:

PART 1412—PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

1. The authority citation for part 1412 continues to read as follows:

Authority: 7 U.S.C. 7201 *et seq.*; and 15 U.S.C. 714b and 714c.

2. Section 1412.201 is amended by adding paragraph (c) to read as follows:

§ 1412.201 Production flexibility contract.
* * * * *

(c) All producers sharing in the contract payments on a farm whose payment shares have not been designated for a fiscal year, must sign the contract designating payment shares and provide supporting documentation as specified in parts 1400, 1405, and 12 of this title, no later than August 1 of the fiscal year to be eligible to earn a contract payment in that fiscal year. If all producers have not signed the contract by this deadline; no producers on the contract will be eligible for a payment for that farm for that fiscal year.

3. Section 1412.207 paragraph (d) is revised to read as follows:

§ 1412.207 Succession-in-interest to a production flexibility contract.
* * * * *

(d) A producer or owner must inform the county committee of changes in interest not later than:

(1) August 1 of the fiscal year in which the change occurs, if producers on the contract remain the same, but payment shares change; or

(2) August 1 of the fiscal year in which the change occurs, if a new producer is being added to the contract.
* * * * *

4. Section 1412.302 paragraph (b) is revised to read as follows:

§ 1412.302 Contract payment provisions.
* * * * *

(b) At the option of the producer, for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be paid on December 15 or January 15, as requested by the producer. To receive the advance payment the producers on the farm must be in compliance with all requirements of the contract at the time of the advance payment. For fiscal year 1998 and each subsequent fiscal year, all producers sharing in the contract payment on the farm must, no later than 15 days prior to the final date to issue the advance payment sign the contract designating payment shares and provide supporting documentation as specified in parts 1400, 1405, and 12 of this title, if applicable; and request the advance payment. If all producers on the farm have not signed the contract designating payment shares, according to this paragraph, then no producers will be eligible for an advance payment for that farm for that fiscal year.
* * * * *

5. Section 1412.303 is amended by removing paragraph (a)(6) and revising paragraphs (a)(2) and (a)(4) to read as follows:

§ 1412.303 Sharing of contract payments.

(a) * * *
(2) A lease will be considered a cash lease if the lease provides for only a guaranteed sum certain cash payment, or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).
* * * * *

(4) A lease shall be considered a share lease if the lease provides for both a guaranteed amount such as a fixed dollar amount or quantity and a share of a crop or crop proceeds, including leases which provide for the greater of a guaranteed amount or share of the crop or crop proceeds.
* * * * *

6. Section 1412.304 paragraph (b) is revised to read as follows:

§ 1412.304 Provisions relating to tenants and sharecropper.
* * * * *

(b) Notwithstanding the provisions set forth at § 1412.302(c), if the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county committee shall

make the payment at a later date if all persons eligible to receive a share of the contract payment, have executed a contract not later than August 1 of the applicable fiscal year and subsequently agree to the division of contract payment.

Signed at Washington, DC, on October 15, 1997.

Bruce R. Weber,
Acting Executive Vice President, Commodity Credit Corporation.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[EOIR No. 119 I; A.G. ORDER No. 2120-97]

RIN 1125-AA20

Executive Office for Immigration Review; Adjustment of Status to That of Person Admitted for Permanent Residence

AGENCY: Executive Office for Immigration Review, Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the date by which aliens must file and pay for their applications for adjustment of status pursuant to section 245(i) of the Immigration and Nationality act. Such applications are adjudicated by the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Courts, or the Immigration and Naturalization Service. This rule also clarifies the procedure for paying for such adjustment applications when filed in conjunction with motions to reopen or reconsider.

DATES: *Effective Date:* This rule is effective October 23, 1997.

Comment Date: Written comments must be received on or before December 22, 1997.

ADDRESSES: Please submit written comments to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia, 22041.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400,