

excess caseload shall be divided equally among State agencies whose approved requests exceed their shares.

(iv) Requests from State agencies to initiate program service for women, infants, and children, and the elderly shall be addressed in the following manner. Requests to initiate service to women, infants, and children shall receive priority over requests to initiate service to the elderly.

(A) State agencies with approved State plans incorporating requests for program initiation to provide service to women, infants, and children shall be assigned caseload in the same manner described in paragraph (a)(2)(iii)(B) of this section.

(B) State agencies with approved State plans incorporating requests for program initiation to provide service to the elderly shall be assigned caseload in the same manner described in paragraph (a)(2)(iii)(C) of this section.

* * * * *

§ 247.24 [Removed]

4. Section 247.24 is removed.

Dated: October 15, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97-28060 Filed 10-22-97; 8:45 am]

BILLING CODE 3410-30-U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV97-930-1 IFR]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Assessment Rate and Establishment of Late Payment and Interest Charges on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the 1997-98 and subsequent fiscal periods to cover expenses incurred by the Cherry Industry Administrative Board (Board) under Marketing Order No. 930. This rule also establishes an interest rate and late payment charge on delinquent assessments owed by handlers under the tart cherry marketing order. The Board is responsible for local administration of the marketing order. Authorization to assess tart cherry

handlers will enable the Board to incur expenses that are reasonable and necessary to administer the program. The interest rate and late payment charges will contribute to the efficient operation of the program by ensuring adequate funds are available to cover budgeted expenses incurred under the marketing order. The 1997-98 fiscal period covers the period July 1, through June 30.

DATES: Effective on October 24, 1997. Comments received by December 22, 1997 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella, Marketing Specialist, and Kenneth G. Johnson, Regional Manager, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, tart cherry handlers are subject

to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tart cherries beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The tart cherry marketing order in section 930.31 provides that one of the duties of the Board is to submit to the Secretary a budget for each fiscal period, prior to the beginning of such period, including a report explaining the items appearing therein and a recommendation as to the rates of assessments for such period. The recommendations concerning the proposed assessment rate are discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

At its meeting on January 8 and 9, 1997, the Board unanimously recommended expenditures of \$650,000, and an assessment rate of \$0.0025 per pound of tart cherries handled during the 1997-1998 crop year and subsequent crop years. The recommended expenditure figure covers expenses for the 1997-98 fiscal period, as well as expenses incurred in connection with the start-up of the program beginning on January 1, 1997, when the first public meeting of the newly formed Board took place. The tart cherry marketing order became effective on September 25, 1996. The Department has approved the Board's 1997-98 budget of expenses. Until assessment income is available, the Board may obtain funds through a lending institution to fund Board operations.

The Board will begin to assess handlers as soon as possible after the effective date of this interim final rule, and all assessments will be due to the Board office by November 30, 1997, for this season only. Future assessment payments will be due to the Board office by October 1. Major expenditures recommended by the Board for the 1997-98 fiscal period, ending June 30, 1998, and expenditures for the prior six months, are \$25,000 for interest, \$175,000 for Board meeting expenses, \$150,000 for salaries, \$100,000 for administration, and \$200,000 for compliance. For the six month period from January 1, 1997, through June 30, 1997, the expenses were \$59,000.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of tart cherries. Tart cherry shipments for the 1997-98 crop year were estimated at 260 million pounds and were projected to provide \$650,000 in assessment income which, along with interest income, should have been adequate to cover budgeted expenses. At this time, actual production figures are available. Crop production for the 1997-98 season is now projected at 278,989,653 pounds. Assessment income, based on this crop, will be adequate to cover this year's expenses, even with the reduced assessment rate for juice, juice concentrate and puree. Funds in any reserve will be kept within the current approximately one year's operational expenses permitted by the order.

This interim final rule establishes an interest rate of 12 percent per annum and a late payment charge equal to 10 percent of the unpaid balance of the assessment amount due. The interest rate will be applied to any assessment not paid within 30 days of the October 1 due date. However, the October 1 date will be extended to November 30, 1997, for the 1997-98 crop year only. The late payment fee on the unpaid assessment balance by a handler will be assessed 90 days after the October 31 due date for this season and October 1 for future seasons.

Section 930.41(a) of the marketing order provides for the payment by handlers of a pro-rata share of the cost of administering the program under the order. The payment is in the form of a uniform assessment rate applied to each handler's cherry acquisitions. In addition, section 930.41(f) provides that assessments will be calculated on the basis of pounds handled provided that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment will compensate for differences in the

number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products.

Section 930.41 also provides that if a handler does not pay an assessment within the time prescribed by the Board, the assessment may be subject to an interest or late payment charge, or both.

A new section 930.141, specifies that assessments be subject to an interest charge of 1 percent per month on any unpaid assessment balance beginning 30 days from the due date prescribed by the Board. The Board requires that all assessments be paid by October 1 of each crop year. However, assessments will be due on November 30, 1997, for the 1997-98 season only. The October 1 date specified herein will apply to all future seasons.

Assessments are the main source of funds to pay Board expenses. The failure of handlers to pay assessment obligations promptly results in added expense and operational problems for the Board. Authority was placed in the order to levy interest and late payment charges on delinquent assessments. The interest rate and late payment charges in this interim final rule are similar to those established under other marketing orders. To attempt to collect delinquent assessments, the Board will incur the added expense of sending out additional invoices and contacting each delinquent handler by phone, in person, or by fax. Nonpayment or late payment of assessments hampers the operation of the Board.

Handlers will have ample time to pay their assessments and avoid incurring the additional charges. Any amount paid by the handler will be credited upon receipt in the Board office.

Interest and late payment charges will provide incentive for handlers to remit assessments in a timely manner, with the intent of creating a fair and equitable process among all industry handlers. It will not impose any costs on handlers who pay their assessments on time, and will contribute to the efficient administration of the program.

In its deliberations, the Board discussed lower rates when recommending the interest rate and late payment charge but decided that prompt payment of assessments by handlers was crucial to the operation of the program. Therefore, the Board recommended an interest rate and late payment charge deemed to be sufficient to serve as an incentive to handlers to be prompt with their payment of assessments.

A proposed rule concerning this action was issued by the Department on June 27, 1997, and published in the

Federal Register on Thursday, July 3, 1997 (62 FR 36020). The rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period, which ended on August 4, 1997, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. The commenters, representing a tart cherry grower—handler, and an industry organization, opposed the proposed rule.

The first commenter urged the Department to reject the proposed rule because the commenter is concerned that the Board may be improperly constituted at this time and unable to administer any program under 7 CFR part 930 in a legitimate manner. The commenter stated that some of the Board members' participation in certain sales constituencies, should be addressed. The commenter further stated that no decision recommended to the Secretary by the Board should be finalized or be allowed to be imposed upon the industry in an interim final fashion.

The Board was properly nominated in accordance with Department procedures, and selected on December 20, 1996. The Board recommended an assessment rate and late payment and interest charge at its January 1997 meeting. At that time, one of the sales constituencies in question had not yet been established. Concerns which have been raised about the constituency and questions about the eligibility of certain members to serve on the Board are currently under review by the Department.

The second commenter raised eight issues in his comment. First, the commenter stated that the public and the industry cannot respond effectively to the proposed assessment without knowing how the money will be used, and that it is impossible to determine, for example, whether the money will be spent in conformity with the marketing order. The commenter also stated that the fact that the proposed assessment rate is formulated and discussed at a public meeting and that affected persons have an opportunity to participate and provide input is irrelevant.

The proposed rule contained a description of the major expenditures recommended by the Board which is repeated here. The Board's recommendation regarding such expenditures are subject to approval by the Department. Furthermore, the Department has oversight responsibility over marketing order committees to ensure that marketing order funds,

collected through handler assessments, are spent in accordance with order provisions. The public is provided the opportunity to comment on whether the assessment rate is at an appropriate level to fund the activities of the Board. In addition, since all meetings are opened to the public, interested persons can raise concerns and such concerns can be discussed in an open forum. This allows another opportunity for public input in this rulemaking procedure.

Second, while recognizing that the assessment is subject to legal challenge and judicial review, it is the commenters view that, under the regulations, handlers should receive a refund if their challenge is successful. The commenter asked that the proposal be modified to provide for such refund and to ban interest and late payments (which the commenter called a "tax") while a good faith legal challenge is pending.

The Act provides that handlers regulated by marketing orders pay their pro-rata share of expenses, as the Secretary may find are reasonable and likely to be incurred during a specified period for the maintaining and functioning of the marketing order. It does not impose any requirements concerning refunds. Furthermore, late charges and interest payments are not a tax and are common in many of USDA's commodity programs.

Commenter's third point in opposition to the rule was that it cannot be made retroactive to cherries already received by handlers. The assessments imposed by the rule are consistent with provisions of the order which provide for the payment of assessments on cherries handled during a specified fiscal period to cover costs of administering the program. The order further provides that, in the event it is found that an increase in the assessment rate is needed to cover expenses, such increase would apply to all cherries handled during the period. Therefore, retroactivity is not at issue in this rulemaking.

The fourth issue raised by the commenter stated that the Department has not published sufficient rules and regulations designed to implement this new marketing order. Therefore, the industry cannot judge whether or not the program is being administered in accordance with the order so that it should be supported with assessments. It was also the commenter's view that there was ample time to develop regulations through notice and comment rulemaking and therefore interim final rules should not be used.

The Board has worked diligently in discussing and formulating rules and

regulations to implement authorities under this new marketing order. It met January, February, March, June and September of 1997, and recommended rulemaking actions at various meetings. However, since this is a new program, these recommendations needed to be discussed at more than one meeting, and in some instances, modified. Therefore, there was not as much time as the commenter suggests to develop and publish the various rules necessary to administer the program.

The fifth issue raised by the commenter concerns the make-up of the Board. The commenter states that most Board members have become disqualified because of their membership in two cooperatives, and that no corrective action has been taken to resolve this matter.

The Department is aware of this issue and it is currently under review. As soon as such review is completed, the Department will take any action which is deemed necessary.

The sixth issue raised by the commenter stated that the proposal provides for assessments that will continue from season to season. The commenter stated that this is improper especially since this is a new program. The industry may not wish to fund succeeding years' budgets at this level, especially if volume controls are not used, or may wish to delete certain budget items in their entirety.

As previously stated in the proposed rule, this assessment rate established by this interim final rule will continue in effect until the Board recommends a change to the assessment rate or the Department sees a need for such a change. If volume regulations are not implemented during a crop year, the Board would be asked to consider the impact of that on its budget and whether a decrease in the assessment rate is warranted. The Department would then issue a proposed rule recommending establishment of a new assessment rate for the tart cherry industry.

Seventh, the commenter stated that the proposal improperly assumes that the Secretary will impose volume control, and includes at least \$200,000 to fund such program. No such decision has been made. The commenter further states that no proposed rule regarding volume regulation has ever been placed in the **Federal Register**. The commenter asserted that the proposed assessment should be reduced to reflect the lack of any volume control during the 1997-98 season.

The Board formulated its budget in January 1997 and allocated funds for compliance if volume regulation were recommended and imposed. In the

absence of volume control, appropriate adjustments can be made to the budget.

Finally, the commenter stated that the 12 percent interest rate and 10 percent late payment penalty are excessive and unreasonable. At most, the interest charged should not exceed the marginal rate charged to the Board for any actual borrowings needed to meet current needs. The commenter further stated that the final rule should include a grace period for handlers who are in good faith experiencing financial difficulty. In addition, handlers should not have to pay assessments until cherries are sold.

As previously stated, the Board reviewed the interest rate and late payment charge and decided that it had to be large enough to be a penalty and to encourage handlers to pay their assessments on time. The rates established are similar to those established under other marketing orders. Handlers will have until October 1 to pay their assessments which is adequate time for handlers to plan for such payment. Since handlers are assessed uniformly, the due date should be uniform across the industry. The Board cannot wait for payment of assessments while handlers are selling their cherries at various times.

Accordingly, no changes will be made to the proposed rule, based on the comments received. However, the Department is issuing this interim final rule to provide an additional opportunity for the public to comment on the modification discussed below.

The order provides that when an assessment rate based on the number of pounds of cherries handled is established it should provide for differences in relative market values for various cherry products. The discussion of this provision in the order promulgation record indicates that proponents testified that high value products such as frozen, canned, or dried cherries would be assessed one rate while cherries used to make low value products such as juice, juice concentrate or puree would be assessed at one half that rate. Since the \$0.0025/pound assessment proposed by the Board does not reflect such differences in product value, the rule, as previously proposed, will be modified and the \$0.0025/pound assessment rate will be applicable to cherries used in products other than juice, juice concentrate, or puree. The USDA is modifying this action to reflect the intent of the order by setting a rate of \$0.0125 per pound for cherries used in juice, juice concentrate or puree. This rate is based on the evidence presented by the proponents of the order. Interested persons will have the opportunity to

comment on this modified rule. If it is determined the assessment rates do not generate sufficient funds to cover expenses, the order authorizes the Secretary to increase the rate any time during or after the fiscal period. The Department and the Board will continue to study this matter to see if any other products should have different assessment rates.

Data from the National Agricultural Statistics Service (NASS) states that for 1996, utilization for juice, wine or brined uses was 8.0 million pounds for all districts covered under the marketing order. The total processed amount for tart cherries for the 1996 crop year was 256.1 million pounds. Juice, wine, or brined represents about 3 percent of the total processed crop. Data for this season is not available at this time. However, based on the data from the previous season, it seems that juice, juice concentrate and puree is a very small percentage of the crop. Therefore, the modification discussed above should have an insignificant effect on the monies collected for assessments this season. As previously discussed the Board could recommend an increase in the assessment rate if such rate does not generate the funds needed for this season.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that the small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 1,220 producers of tart cherries in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of tart cherry producers and handlers may be classified as small entities.

This rule establishes an assessment rate for the 1997-98 and subsequent fiscal periods to cover expenses of the

Board at \$0.0025 per pound of tart cherries used in the production of tart cherry products other than juice, juice concentrate and puree, and \$0.0125 per pound for juice, juice concentrate and puree. The Board unanimously recommended expenditures of \$650,000 for expenses incurred during the 1997-98 fiscal period as well as for those incurred during the start-up period beginning January 1, 1997. From January 1, 1997, through June 30, 1997, the expenses for this six month period was \$59,000. The expenses for the 1997-98 fiscal period are projected at \$591,000. Tart cherry shipments for the year were estimated at 260 million pounds, which would have provided \$650,000 in assessment income (260,000,000 pounds at \$0.0025 per pound) and would have been adequate to cover this year's expenses. At this time, actual production figures are available. Crop production for the 1997-98 season is 278,989,653 pounds, which, even with the reduced assessment rate for juice, juice concentrate, and puree, will provide adequate assessment income to cover this year's expenses. Funds in any reserve will be kept within the maximum permitted under the order.

The Board discussed alternatives when recommending the interest rate and late payment charge. The Board discussed lower rates, but decided that prompt payment of assessments by handlers is crucial to the operation of the program. Therefore, the Board recommended an interest rate and late payment charge deemed to be sufficient to serve as an incentive to handlers to be prompt with their payment of assessments.

Major expenditures recommended for the 18-month period ending in June 30, 1998, include \$25,000 for interest, \$175,000 for Board meeting expenses, \$150,000 for salaries, \$200,000 for program compliance. The \$200,000 for compliance was deemed necessary in the event volume control regulations are implemented during the 1997-98 season. The Board discussed setting an assessment rate that would allow for sufficient operation of a volume control program for the upcoming season. With regards to alternatives, this rate may be adjusted by the Secretary, if necessary. Accordingly, the Department believes that since the assessments are necessary to make funds available to cover the initial costs of implementing the new order, including operation of a volume control program for the upcoming season, if implemented, the assessment rate will be as recommended by the Board, and modified by the Department.

This action will not impose any additional reporting or recordkeeping on either small or large tart cherry handlers. As 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 new forms for the operation of the order have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0177.

The interest and late payment charges were also discussed at a public meeting. The Board believes the interest charge is a reasonable rate. The late payment fee is high enough to discourage late payments and encourage the timely payment of assessments by handlers.

This interim final rule provides incentive for handlers to remit assessments in a timely manner, with the intent of creating a fair and equitable process among all industry handlers. It will not impose any costs on handlers who pay their assessments on time, and will contribute to the efficient administration of the program.

Handlers who do not pay their assessments on time will be able to reap the benefits of Board programs at the expense of others. In addition, they will be able to utilize funds for their own use that will otherwise be paid to the Board to finance Board programs. In effect, this will provide handlers with an interest free loan.

Implementing interest and late payment charges will provide an incentive for handlers to pay assessments on time, which will improve compliance with the order. It will minimize actions taken against handlers who fail to pay assessments on time through administrative remedies or the Federal courts. These remedies, currently the only recourse against handlers who fail to pay assessments, can be costly and time consuming. This interim final rule will remove any economic advantage gained by those handlers who do not pay on time, thus helping to ensure a program that is equitable to all. This is also consistent with standard business practices.

While this interim final rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order.

This interim final rule will not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As

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.