assessment rates to $0.06 per 25-pound container or container equivalent. This would allow them to meet their 2007–08 fiscal period expenses and carry over necessary reserves to finance operations before 2008–09 fiscal period assessments are collected.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for nectarines and peaches for the 2007–08 season could range between $6.00 and $8.00 per 25-pound container or container equivalent. Therefore, the estimated assessment revenue for the 2007–08 fiscal period as a percentage of total grower revenue could range between .75 and 1 percent.

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate would reduce the burden on handlers, and may reduce the burden on producers. In addition, the committees' meetings were widely publicized throughout the California nectarine and peach industries and all interested persons were invited to attend the meetings and were encouraged to participate in the committees' deliberations on all issues. Like all committee meetings, the May 1, 2007, meetings were public meetings and entities of all sizes were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large 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 AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2007–08 fiscal period began on March 1, 2007, and the marketing orders require that the rates of assessment for each fiscal period apply to all assessable nectarines and peaches handled during such fiscal period; (2) the proposed rule would decrease the assessment rates for assessable nectarines and peaches beginning with the 2007–08 fiscal period; and (3) handlers are aware of this action, which was discussed by the committees at public meetings and recommended at their meetings on May 1, 2007, and is similar to other assessment rate actions issued in past years.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are proposed to be amended as follows:

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

2. Section 916.234 is revised to read as follows:

§ 916.234 Assessment rate.

On and after March 1, 2007, an assessment rate of $0.06 per 25-pound container or container equivalent of nectarines is established for California nectarines.

PART 917—PEACHES GROWN IN CALIFORNIA

3. Section 917.258 is revised to read as follows:

§ 917.258 Assessment rate.

On and after March 1, 2007, an assessment rate of $0.06 per 25-pound container or container equivalent of peaches is established for California peaches.

Dated: June 13, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–11822 Filed 6–19–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Docket No. AMS–FV–07–0073; FV07–923–1 PR]

Sweet Cherries Grown in Designated Counties in Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the Washington Cherry Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from $0.50 to $0.40 per ton for Washington sweet cherries handled. The Committee is responsible for local administration of the marketing order regulating the handling of sweet cherries grown in designated counties in Washington. Assessments upon handlers of sweet cherries are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period for the marketing order begins April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended or terminated.

DATES: Comments must be received by July 2, 2007.

ADDRESSES: Interested persons are invited to submit written comments regarding this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue,

Suite 385, Portland, OR 97204; Telephone: (503) 326–2724; Fax: (503) 326–7440; or e-mail: *Robert.Curry@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938; or e-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 923 (7 CFR part 923), as amended, regulating the handling of sweet cherries grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is 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 (USDA) 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, cherry handlers in designated counties in Washington 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 Washington sweet cherries beginning April 1, 2007, and continue 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 USDA 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 USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would decrease the assessment rate established for the Committee for the 2007–2008 and subsequent fiscal periods from $0.50 to $0.40 per ton for Washington sweet cherries handled under the order.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of sweet cherries in designated counties in Washington. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2006–2007 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate of $0.50 per ton of sweet cherries handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 2, 2007, and unanimously recommended 2007–2008 expenditures of $71,600. In comparison, last year's budgeted expenditures were $49,800. In addition, the Committee recommended that the current $0.50 per ton assessment rate be decreased by $0.10 to $0.40 per ton of sweet cherries handled. The Committee recommended the lower assessment rate for the purpose of decreasing the monetary reserve, which is approximately $83,792. Funds in the reserve must be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (7 CFR 923.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $22,500 for administration and data management fees, $36,500 for Committee expenses such as travel, accounting and compliance, and $7,600 for office expenses—including bonds, insurance, telephone, office equipment and supplies. Budgeted expenses for these items in 2006–2007 were $25,000, $16,200, and $7,100, respectively. Higher expenses are anticipated this season due to a producer survey and other regulatory research expenses requested by the Committee, as well as the associated increase in staff costs.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington sweet cherries. Applying the $0.40 per ton rate of assessment to the Committee's 120,000 ton crop estimate should provide $48,000 in assessment income. Income derived from handler assessments, along with interest income and approximately $23,600 from the Committee's reserve, would be adequate to cover budgeted expenses. While there is currently about $83,792 in the monetary reserve, the Committee estimates that with the adoption of this proposed rule this fund will have approximately $60,267 in it on March 31, 2008.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of the Committee's meetings are available from the Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2007–2008 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

There are approximately 1,500 cherry producers within the regulated production area and approximately 53 regulated handlers. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

The Washington Agricultural Statistics Service has prepared a preliminary report for the 2006 shipping season showing that the sweet cherry fresh market utilization of 136,000 tons sold for an average of $2,000 per ton. Based on the number of producers in the production area (1,500), the average producer revenue from the sale of sweet cherries in 2006 can therefore be estimated at approximately $181,333 per year. In addition, the Committee reports that most of the industry's 53 handlers would have each averaged gross receipts of less than $6,500,000 from the sale of fresh sweet cherries last season. Thus, the majority of producers and handlers of Washington sweet cherries may be classified as small entities.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 2007–2008 and subsequent fiscal periods from $0.50 to $0.40 per ton for sweet cherries. The Committee also unanimously recommended 2007–2008 expenditures of $71,600. With the 2007–2008 Washington sweet cherry crop estimate of 120,000 tons, the Committee anticipates assessment income of $48,000. The Committee recommended the assessment rate decrease for the purpose of decreasing the monetary reserve, which is approximately $83,792. With this proposed assessment rate and budget, the Committee may need to draw up to $23,600 from its monetary reserve, thus helping to decrease the reserve to a level that is less than approximately one fiscal period's operating expenses, the maximum permitted by the order.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $22,500 for administration and data management fees, $36,500 for Committee expenses, and $7,600 for office expenses. Budgeted expenses for these items in 2006–2007 were $25,000, $16,200, and $7,100, respectively.

The Committee discussed alternatives to this rule. Leaving the assessment rate at the current $0.50 per ton was initially considered, but not recommended because of the Committee's desire to decrease the level of the monetary reserve so that it is not more than approximately one fiscal period's operational expenses.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2007–2008 season could average about $2,000 per ton for fresh Washington sweet cherries. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue is 0.02 percent for Washington sweet cherries.

This action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the Washington sweet cherry industry and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the May 2, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Washington sweet 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. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and order may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) This rule would decrease the assessment rate, and thus also would decrease the burden on handlers; (2) the 2007–2008 fiscal period began on April 1, 2007, and the order requires that the rate assessment for each fiscal period apply to all assessable sweet cherries handled during such fiscal period; (3) the Washington sweet cherry harvest and shipping season is expected to begin as early as the last week of May; (4) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (5) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 923 is proposed to be amended as follows:

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 923 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 923.236 is revised to read as follows:

§ 923.236 Assessment rate.

On and after April 1, 2007, an assessment rate of $0.40 per ton is established for the Washington Cherry Marketing Committee.

Dated: June 13, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–11820 Filed 6–19–07; 8:45 am]

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