Proposed Rules

Federal Register
Vol. 63, No. 222
Wednesday, November 18, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 316

RIN 3206 AI45

Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations to provide the possibility for promotion of employees appointed as worker-trainees under TAPER appointments through grade GS–4, WG–5, or equivalent grades in the Federal Wage System.

DATES: Written comments will be considered if received on or before December 18, 1998.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6500, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Diane Tyrrell, 202–606–0830, FAX 202–606–0390, or TDD 202–606–0023.

SUPPLEMENTARY INFORMATION: In striving to meet the goals under the President's welfare to work initiative, Federal agencies have used the TAPER (temporary appointment pending the establishment of a register) authority as their primary appointing authority to appoint employees into the worker trainee program. Using this authority, the current regulations do not allow for promotion beyond the GS–3, WG–4 and equivalent level. Based on the success to date with the use of this authority, agencies would like more flexibility to be able to advance employees beyond the current limits. Currently, these employees must compete for other opportunities or remain at this grade level until completion of the three year period under the program. Agencies have voiced concern regarding the undue restriction of this grade level limitation.

Program Background

The worker-trainee program was initiated in 1968 and was developed and used, at that time, extensively as a vehicle to competitively hire unskilled, disadvantaged workers. By 1979, activity under this program became very limited and as a result too costly for the Office of Personnel Management (OPM) to maintain registers. Rather than completely eliminate the program, OPM retained the worker trainee as an option under the TAPER authority. Today, it is once again being used widely in connection with the welfare to work program.

Incentive For Change

Agencies have had positive experiences in the recruitment of individuals from the welfare rolls. Currently, employees who are eager and show an ability to excel beyond the current grade level limits of GS–3, WG–4 and equivalent, are forced to remain at this level. In an effort to provide maximum opportunity to those hired into the worker-trainee program, while remaining consistent with the intent of the program, agencies have expressed interest in providing promotion opportunity beyond the current program limits. This enhancement would allow promotion beyond the GS–3, WG–4 levels when appropriate, and would further the overall goals of the welfare to work program.

Justification for New Limit

While there is a need to recognize employee performance and provide advancement opportunity, OPM must balance this with the original intent of the program to provide opportunity for ''trainees'' to acquire or improve basic skills. This program was designed and continues to function as a ''trainee'' program for those individuals who are newly hired into government service. Based on classification standards, the highest grade level to which employees would be expected to advance under this program would be to the GS–4, WG–5 or equivalent. We therefore find this to be an appropriate level at which to limit advancement in the worker-trainee program.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

List of Subjects in 5 CFR Part 316

Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is proposing to amend part 316 of title 5, Code of Federal Regulations, as follows:

PART 316—TEMPORARY AND TERM EMPLOYMENT

1. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302: E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Subpart B—TAPER Employment

2. Section § 316.201 paragraph (b) is revised to read as follows:

§ 316.201 Purpose and duration.

* * * * *

(b) *Specific authority for Worker-Trainee positions.* Agencies may make TAPER appointments to positions at GS–1, WG–1 and WG–2 and may reassign or promote the appointees to other positions through grade GS–4, WG–5, or equivalent grades in the Federal Wage System consistent with § 330.501 of this chapter. Agencies are authorized to reassign or promote Worker-Trainees under this authority.

[FR Doc. 98–30842 Filed 11–17–98; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV98–930–1 PR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1998–99 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on the establishment of final free and restricted percentages for the 1998–99 crop year. The percentages are 60 percent free and 40 percent restricted. The percentages would establish the proportion of cherries from the 1998 crop which may be handled in normal commercial outlets and are intended to stabilize supplies and prices, and strengthen market conditions. The percentages were recommended by the Cherry Industry Administrative Board (Board), the body which locally administers the marketing order. The marketing order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

DATES: Comments must be received by December 3, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698 or E-mail: moabdocket__clerk@usda.gov. 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 or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 205–6632, or E-mail: Jay__N__Guerber@usda.gov. You may also view the marketing agreements and orders small business compliance guide at the following website:

http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This proposal is issued under marketing agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This rule would establish final free and restricted percentages for tart cherries for the 1998–99 crop year, beginning July 1, 1998, through June 30, 1999. This rule would 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 requesting a modification of the order or to be exempt 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 in equity 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 order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. The regulations apply to all handlers of tart cherries that are in the regulated districts. Tart cherries in the free percentage category may be shipped immediately to any market, while restricted percentage tart cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with § 930.59 of the order and § 930.159 of the regulations, or used for exempt purposes (and obtaining diversion credit) under § 930.62 of the order and § 930.162 of the regulations. The regulated Districts for this season are: District one—Northern Michigan; District two—Central Michigan; District three—Southwest Michigan; District four—New York; and District seven—Utah. Districts five, six, eight and nine (Oregon, Pennsylvania, Washington, and Wisconsin, respectively) would not be regulated for the 1998–99 season.

The order prescribes under § 930.52 that upon adoption of the order, those districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. A district not meeting the 15 million pound requirement shall not be regulated in such crop year. Therefore, for this season, handlers in the districts of Oregon, Pennsylvania, Washington, and Wisconsin would not be subject to volume regulation. They were also not subject to volume regulation during the last season.

Section 930.50(a) of the order describes procedures for computing an optimum supply for each crop year. The Board must meet on or about July 1 of each crop year, to review sales data, inventory data, current crop forecasts and market conditions. The optimum supply volume shall be calculated as 100 percent of the average sales of the prior three years to which is added a desirable carryout inventory not to exceed 20 million pounds or such other amount as may be established with the approval of the Secretary. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year.

The order also provides that on or about July 1 of each crop year, the Board is required to establish preliminary free and restricted percentages. These percentages are computed by deducting the carryin inventory from the optimum supply figure (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) and dividing that figure by the current year's USDA crop forecast. The carryin inventory figure reflects the amount of cherries that handlers actually have in inventory. If the resulting quotient is 100 percent or more, the Board should establish a preliminary free market tonnage percentage of 100 percent. If the quotient is less than 100 percent, the Board should establish a preliminary free market tonnage percentage equivalent to the quotient, rounded to the nearest whole percent, with the complement being the preliminary restricted percentage.

The Board met on June 18–19, 1998, and computed, for the 1998–99 crop year, an optimum supply of 287.4 million pounds. The Board recommended that the carryout figure be zero pounds. Carryout is the amount

of fruit required to be carried into the succeeding crop year and is set by the Board after considering market circumstances and needs. This figure can range from zero to a maximum of 20 million pounds. The Board calculated preliminary free and restricted percentages as follows: The USDA estimate of the crop was 292.5 million pounds; a 46 million pound carryin added to that equaled a total available supply of 338.5 million pounds. The carryin figure reflects the amount of cherries that handlers actually have in inventory. The optimum supply was subtracted from the total estimated available supply resulting in a surplus of 51.1 million pounds of tart cherries. An adjustment for changed economic conditions of 37.0 million pounds was added to the surplus, pursuant to section 930.50 of the order. This adjustment is discussed later in this document. After the adjustment, the resulting total surplus is 125.1 million pounds of tart cherries. The surplus was divided by the production in the regulated districts (258 million pounds) and resulted in 66 percent free and 34 percent restricted for the 1998–99 crop year. The Board recommended these percentages by a 15 to 2 vote, with one abstention. Those Board members voting against the recommendation disagreed with the computation of the carryin figure because they thought that the figure should also include the amount in the inventory reserve. Record evidence received during the promulgation of the order indicated that the carryin figure reflects the amount of cherries that handlers actually have in inventory (not in the primary or secondary reserve). The Board recommended the percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information for the 1998–99 crop year:

	In millions of pounds
Optimum Supply Formula:	
(1) Average sales of the prior three years	287.4
(2) Less carryout	0
(3) Optimum Supply calculated by the Board at the June meeting	287.4
Preliminary Percentages:	
(4) Less carryin as of July 1, 1998	46.0
(5) Tonnage requirement for current crop year	241.4
(6) USDA crop estimate	292.5
(7) Surplus (item 6 minus item 5)	51.1
(8) Economic adjustment to surplus	37.0
(9) Adjusted surplus (item 7 plus item 8)	88.1
(10) USDA crop estimate for regulated districts	258.0

Percentages	Free	Restricted
(11) Preliminary percentages (item 9 divided by item 10) x 100	66	34

Between July 1 and September 15 of each crop year, the Board may modify the preliminary free and restricted percentages by announcing interim free and restricted percentages to adjust to the actual pack occurring in the industry.

Section 930.50(d) of the order requires the Board to meet no later than September 15 to recommend final free and restricted percentages to the Secretary for approval. The Board met on September 10–11, 1998, and recommended final free and restricted percentages of 60 and 40, respectively. The Board recommended that the interim percentages and final percentages be the same percentages. At that time, the Board had available actual production amounts to review and made the necessary adjustments to the percentages.

The Secretary establishes final free and restricted percentages through an informal rulemaking process. These percentages would make available the tart cherries necessary to achieve the optimum supply figure calculated earlier by the industry. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent is the final restricted percentage.

The Board used a revised optimum supply figure for its final free and restricted percentage calculations. The figure is 288.6 million pounds instead of the 287.4 million pound figure used in June. This is because the 3-year average sales figure used at the June meeting by necessity required an estimate of June 1998 sales. The 3-year average sales figure used in the final calculations reflects actual sales through the 1997–98 crop year.

The optimum supply, therefore is 288.6 million pounds. The actual production recorded by the Board was 339.9 million pounds, which is a 47.4 million pound increase from the USDA crop estimate of 292.5 million pounds. The increase in the crop is due to very favorable growing conditions in portions of the State of Michigan this season. For the current crop year, 305.3 million pounds of tart cherries were produced in the regulated districts.

A 38.8 million pound carryin (actual carryin as opposed to the 46 million pounds originally estimated) was subtracted from the optimum supply of 288.6 million pounds, which yields a tonnage requirement for the current crop year of 249.8 million pounds. Subtracted from the actual production in all districts of 339.9 million pounds reported by the Board is the tonnage required for the current crop year (249.8 million pounds) which results in a 90.1 million pound surplus. An adjustment for changed economic conditions of 31.4 million pounds was added to the surplus, pursuant to section 930.50 of the order. This adjustment is discussed later in this document. After the adjustment, the resulting total surplus is 121.5 million pounds of tart cherries. The total surplus of 121.5 million pounds is divided by the 305.3 million pound volume of tart cherries produced in the regulated districts. This results in a 40 percent restricted percentage and a corresponding 60 percent free percentage for the regulated districts.

The final percentages are based on the Board's reported production figures and the following supply and demand information for the 1998–99 crop year:

	In millions of pounds
Optimum Supply Formula:	
(1) Average sales of the prior three years	288.6
(2) Less carryout	0
(3) Optimum Supply calculated by the Board at the September meeting	288.6
Final Percentages:	
(4) Less carryin as of July 1, 1998	38.8
(5) Tonnage required current crop year	249.8
(6) Board reported production	339.9
(7) Surplus (item 6 minus item 5)	90.1
(8) Economic adjustment to surplus	31.4
(9) Adjusted surplus (item 7 plus item 8)	121.5
(10) Production in regulated districts	305.3

Percentages	Free	Restricted
(11) Final Percentages (item 9 divided by item 10) x 100	60	40

As previously mentioned, the Board recommended an economic adjustment be made in computing both the

preliminary and final percentages for the 1998–99 crop year. This is authorized under § 930.50. These subsections provide that in its deliberations of volume regulation recommendations, the Board consider, among other things, the expected demand conditions for cherries in different market segments and an analysis of economic factors having bearing on the marketing cherries. Based on these considerations, the Board may modify its marketing policy calculations to reflect changes in economic conditions.

The order provides that the 3-year average of all sales be used in determining the optimum supply of cherries. In recent seasons, however, sales to export markets have risen dramatically. In 1997, export sales of 61.1 million pounds were 379 percent of 1994 sales (16.1 million pounds). The increase in export sales to those destinations exempt from volume regulation (countries other than Canada, Japan, and Mexico) was even greater, rising from 12.2 million pounds to 48.7 million pounds. Export sales to countries other than Canada, Japan and Mexico were exempt from volume regulations as a way for the tart cherry industry to find and expand new markets for their products. Including this volume of sales in the optimum supply formula, however, results in an overestimate of the volume of tart cherries that can be profitably marketed in unrestricted markets. Thus, the Board recommended adjusting its estimate of surplus cherries by adding exempt export sales.

By recommending this marketing policy modification, the Board believes that it will provide stability to the marketplace and the industry will be in a better situation for future years since new markets will have been developed. Board members were of the opinion that, if this adjustment is not made, growers could be paid less than their production costs, because handlers would suffer financial losses that would probably be passed on. Handlers would have to meet their reserve obligations by other means. In addition, the value of cherries already in inventory could be depressed due to the overabundant supply of available cherries, a result inconsistent with the intent of the order and the Act.

The Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal would be met by the establishment of a preliminary percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under § 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board recommended that such release shall be made available to handlers the first week of December and the first week of May. Handlers can decide how much of the 10 percent release they would like to receive during the December and May release dates. Once released, such cherries are released for free use by such handler. Approximately 29 million pounds would be made available to handlers this season in accordance with Department Guidelines. This release would be made available to every handler and released to such handler in proportion to its percentage of the total regulated crop handled. If such handler does not take such handler's proportionate amount, such amount shall remain in the inventory reserve.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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 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 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 1,400 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Board and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced and pureed. During the period 1993/94 through 1997/98, approximately 89 percent of the U.S. tart cherry crop, or 281.1 million pounds, was processed annually. Of the 281.1 million pounds of tart cherries processed, 63 percent was frozen, 25 percent canned and 4 percent utilized for juice. The remaining 8 percent was dried or assembled into juice packs.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. In the ten-year period, 1987/88 through 1997/98, tart cherry area decreased from 50,050 acres, to less than 40,000 acres. In 1997/98, approximately 88 percent of domestic tart cherry acreage is located in four States: Michigan, New York, Utah and Wisconsin. Michigan leads the nation in tart cherry acreage with 67 percent of the total. Michigan produces about 78 percent of the U.S. tart cherry crop each year. In 1997/98, tart cherry acreage in Michigan decreased to 26,800 from 27,300 in the previous year.

In crop years 1987/88 through 1997/98, tart cherry production ranged from a high of 359 million pounds in 1987/88 to a low of 189.9 million pounds in 1991/92. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Growers testified during the order promulgation process that the prices which they received often did not come close to covering the costs of production. They also testified that production costs for most growers range

between 20 and 22 cents per pound, which is well above average prices received during 1993–1995.

The industry has demonstrated a need for an order during the promulgation process of the marketing order because large variations in annual tart cherry supplies tend to lead to fluctuations in prices and disorderly marketing. As a result of these fluctuations in supply and price, growers realize less income. The industry chose a volume control marketing order to even out these wide variations in supply and improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers had been going out of business due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

In discussing the possibility of marketing percentages for the 1998–99 crop year, the Board considered the following factors contained in the marketing policy: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in June 1998 of preliminary free and restricted percentages and in the final and free and restricted percentages proposed in this rule (60 percent free and 40 percent restricted).

The Board discussed the demand for tart cherries is inelastic at high and low levels of production. At the extremes, different factors become operational. The order's promulgation record stated that in very short crops there is limited but sufficient exclusive demand for cherries that can cause processor prices to double and grower prices to triple. In the event of large crops, there seems to be no price low enough to expand tart cherry sales in the marketplace sufficient to market the crops.

In considering alternatives, the Board discussed not having volume regulation this season. Board members stated that no volume regulation would be detrimental to the tart cherry industry. Returns to growers would not even cover their production costs for this season. Growers would continue to go out of business since many would not receive any money for their crop.

The Board discussed the fact that the general quality of the crop for this season is fair to good. Alternative products used by food processing and preparation establishments instead of cherries are apples and blueberries which can be substituted for cherries if cherries cannot be sold at consistent prices.

As mentioned earlier, the Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages proposed to be established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

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

While the level of benefits of this rulemaking is difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements have been previously approved by OMB and assigned OMB Number 0581–0177.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule needs to be in place as soon as possible to achieve its intended purpose of making the optimum supply quantity computed by the Board available to handlers marketing 1998–99 crop year cherries. All written comments timely received will be considered before a final determination is made on this matter.

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 proposed to be 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. Subpart—Supplementary Regulations is added, consisting of § 930.251, to read as follows:

Subpart—Supplementary Regulations

Note: This section will not appear in the annual Code of Federal Regulations.

§ 930.251 Final free and restricted percentages for the 1998–99 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 1998, which shall be free and restricted, respectively, are designated as follows: Free percentage, 60 percent and restricted percentage, 40 percent.

Dated: November 9, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–30672 Filed 11–17–98; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

RIN 3052–AB85

Statement on Regulatory Burden

AGENCY: Farm Credit Administration.

ACTION: Notice of intent; comment period extension.

SUMMARY: The Farm Credit Administration (FCA) Board extends the comment period on the Regulatory Burden Notice for 60 more days so interested parties have additional time to identify those regulations and policies that impose unnecessary burdens on Farm Credit System (FCS) institutions.

DATES: Please send your comments to us on or before January 19, 1999.

ADDRESSES: You may mail or deliver comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or send them by facsimile transmission to (703) 734–5784. You may also submit comments via electronic mail to ''reg-comm@fca.gov'' or through the Pending Regulations section of the FCA's interactive website at ''www.fca.gov.'' Copies of all communications received will be available for review by interested parties in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

S. Robert Coleman, Senior Policy Analyst, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498,

or

Richard A. Katz, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On August 18, 1998, we published a notice in the **Federal Register** seeking information and guidance about how to reduce regulatory burdens on FCS institutions. The comment period will expire on November 20, 1998. *See* 63 FR 44176, August 18, 1998. In response to a request, we now extend the comment period until January 19, 1999, so you will have more time to respond.

Dated: November 12, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–30810 Filed 11–17–98; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–251–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. This proposal would require a one-time inspection of the main landing gear (MLG) wheel assemblies to determine whether certain parts are installed, and follow-on corrective actions, if necessary. For certain airplanes, this proposal also would require eventual modification of MLG wheel assemblies, which would terminate the requirements of this AD. This proposal is prompted by incidents of multiple tie bolt failures on certain BFGoodrich wheel assemblies. The actions specified by the proposed AD are intended to prevent failure of multiple tie bolts of MLG wheel assemblies, which could result in failure of the wheel rim, rapid release of tire pressure, and possible consequent damage to the airplane and injury to passengers and flightcrew.

DATES: Comments must be received by January 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–251–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Kurle, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2798; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–251–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–251–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that tie bolts have failed on certain BFGoodrich wheel assemblies that are installed on the main landing gear (MLG) of Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. Most of the incidents of