separately and cite 5 U.S.C. 609 in the correspondence.

D. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, the existing information collection requirements for the NOP are approved under OMB number 0581–0181. No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR Part 1320.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB. The five substances proposed to be added to the National List were based on petitions from the industry and evaluated by the NOSB using criteria in the Act and the regulations. Because these substances are critical to organic production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. Accordingly, AMS believes that a 10-day period for interested persons to comment on this rule is appropriate.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR Part 205, Subpart G is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR Part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. Section 205.605 (proposed to be revised at 68 FR 18560, April 16, 2003) is amended by:

a. Adding two substances to paragraph (a).

b. Adding three substances to paragraph (b).

c. Revising Potassium hydroxide in paragraph (b).

The additions and revisions read as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''

* * * * *

(a) * * *

* * * * *

Calcium sulfate—mined.

* * * * *

Glucono delta-lactone.

* * * * *

(b) * * *

Animal enzymes—(Rennet—animals derived; Catalase—bovine liver; Animal lipase; Pancreatin; Pepsin; and Trypsin).

* * * * *

Cellulose—for use in regenerative casings, as an anti-caking agent (non-chlorine bleached) and filtering aid.

* * * * *

Potassium hydroxide—prohibited for use in lye peeling of fruits and vegetables except when used for peeling peaches during the Individually Quick Frozen (IQP) production process.

* * * * *

Tetrasodium pyrophosphate—for use only in textured meat analog products.

* * * * *

Dated: May 16, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Services.

[FR Doc. 03–12803 Filed 5–21–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV03–930–2 PR]

Tart Cherries Grown in the States of Michigan, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the assessment rate for tart cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.00175 to $0.0019 per pound. It would also increase the assessment rate for cherries utilized for juice, juice concentrate, or puree from $0.000875 to $0.0019 per pound. The single assessment rate for all assessable tart cherries was recommended by the Cherry Industry Administrative Board (Board) under Marketing Order No. 930 for the 2002–2003 and subsequent fiscal periods. The Board is responsible for local administration of the marketing order which regulates the handling of tart cherries grown in the production area. Authorization to assess tart cherry handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1, 2002, and ends June 30, 2003. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by June 2, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, 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 or can be viewed at: *http://www.ams/usda.gov/fv/moab/html.*

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, MD 20737, telephone: (301) 734–5243, or Fax: (301)–734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, or Fax: (202) 720–8938.

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 Avenue, 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 proposed 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 (USDA) is issuing this proposed rule in

conformance with Executive Order 12866.

This proposed 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 would be applicable to all assessable tart cherries beginning July 1, 2002, and continue until amended, suspended, or terminated. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposed 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 proposed rule would increase the assessment rate established for the Board for the 2002–2003 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.00175 to $0.0019 per pound of cherries. The assessment rate for cherries utilized for juice, juice concentrate, or puree would also be increased from $0.000875 to $0.0019 per pound.

The tart cherry marketing order provides authority for the Board, 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 Board are producers and handlers of tart cherries. They are familiar with the Board'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 or rates as appropriate. The assessment rates are formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001–2002 fiscal period, the Board recommended, and the Department approved, assessment rates that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the USDA upon recommendation and information submitted by the Board or other information available to USDA.

Section 930.42(a) of the order authorizes a reserve sufficient to cover one year's operating expenses. The increased rates are expected to generate enough income to meet the Board's operating expenses in 2002–2003.

The Board met on January 24, 2002, and unanimously recommended 2002–2003 expenditures of $522,500. The Board also recommended that an assessment rate of $0.0019 be established for all tart cherry products if an amendment to do so passed in a May 2002 referendum of producers and processors. The amendment passed and was finalized by USDA on August 8, 2002 (67 FR 51698). The provisions requiring the establishment of different assessment rates for different products were removed. In their place, the Board is required to consider the volume of cherries used in making various products and the relative market value of those products in deciding whether the assessment rate should be a single, uniform rate applicable to all cherries or whether varying rates should be recommended for cherries manufactured into different products. Prior to the amendment passing in referendum, the Department issued a proposed rule on June 10, 2002 (67 FR 39637) proposing a dual assessment rate at higher amounts ($0.0021 and $0.00105, respectively, for high and low value cherry products) since the uniform assessment rate amendment was not yet effective. A rule withdrawing that proposal was published on April 2, 2003 (68 FR 15971). This proposal reflects the amended provisions and the Board's January 24, 2002 recommendation.

The amended assessment provisions allow the Board to recommend a uniform single assessment rate for all assessable tart cherries handled, or variable rates depending on the quantities and values of the cherries used in the various products. A two-tiered assessment rate scheme may be appropriate in some years, it may not be in others.

The amended order specifically provides that under § 930.41(f)(1) and (2) the established assessment rates may be uniform, or may vary depending on the product the cherries are used to manufacture. The Board may consider the differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products. The Board considered the above items and decided that one assessment rate should be recommended for all assessable tart cherries for the 2002–2003 fiscal period.

According to the Board, processors have developed a strong market for juice and concentrate products over the past few years. There is considerable belief that juice will be one of the growth outlets for tart cherries. This derives from the industry's promotional efforts being undertaken for juice and concentrate products, the segmentation of the market into retail and industrial components and the nutritional/nutraceutical profile of the product. As a result, there has been an increase in consumer recognition, acceptance, purchases, and the value of tart cherry juice and concentrate. According to the Board, prices received for tart cherry juice concentrate are now $25.00 per gallon or more. This is derived by using the fairly common conversion ratio of 100 pounds to the gallon for mid-west production, which has a raw product value of $0.25 per pound. Using a 50 gallon conversion for the product, as has been used on the west coast, this represents a per pound value of $0.50. The difference in the west and mid-west conversion factors is that tart cherries produced in the western United States generally have a higher sugar content and larger fruit size, thus fewer raw product is needed. The average grower price received ranges between $0.17 to $0.20 per pound.

According to the Board, puree products are as valuable and comparable to juice and juice concentrate products. The Board reported that the spot price for single strength puree for 2001–02 was about $0.60 cents per pound. The raw product equivalent (RPE) volume of pureed fruit was 539,504 pounds which is about 0.15 percent of all processed fruit. The Board also reported for 2001–02 that the price for five plus one product was $0.67 cents per pound. Five plus one is a product of cherries and sugar which is manufactured by many processors (25 pounds of cherries and five pounds of sugar to make a 30 pound commercial container). It is the main product that handlers produce. Five plus one cherries are primarily sold and remanufactured into assorted bakery items, canned pie fill, and dried cherries. Since juice, juice concentrate, and puree are not considered to be low value products at this time, the Board considers one assessment to be

appropriate. It is important to understand that product is moved around between production areas and may be converted into puree or concentrate at a later date. The market drives the processing of these various products each season.

In comparing the prices of juice, juice concentrate, and puree with the 5 plus 1 product, the Board determined that current prices for these products are similar. The information received from the Board indicates that puree products are becoming a viable market and should be assessed at a higher assessment rate.

As a result of this season's 2002–2003 short crop, much of the tart cherry products released from inventory were in the form of tart cherry juice and/or juice concentrate. There is not much, if any, of this product available on the market today. The Board contends that given these factors, it is hard to suggest that juice/concentrate, or puree, are of lesser value than are the more traditional products such as pie-fill or individually quick frozen tart cherries. Thus, the Board determined that one assessment rate is appropriate for the 2002–03 fiscal period.

Last year's budgeted expenditures were $442,500. The recommended assessment rate of $0.0019 is higher than the current rates of $0.00175 for cherries used in the production of other than juice, juice concentrate, or puree products, and $0.000875 for cherries used for juice, juice concentrate or puree products.

The major expenditures recommended by the Board for the 2002–2003 fiscal period include $85,000 for meetings, $170,000 for compliance, $185,000 for personnel, $80,000 for office expenses, and $2,500 for industry educational efforts. Budgeted expenses for those items in 2001–2002 were $80,000 for meetings, $100,000 for compliance, $185,000 for personnel, $75,000 for office expenses, and $2,500 for industry educational efforts, respectively. As discussed below, the Board's staff has taken steps to reduce actual expenditures for 2002–03 due to the assessment revenue shortfall. In comparison, last year's budgeted expenditures were $442,500. The recommended assessment rate of $0.0019 is higher than the current rates of $0.00175 and $0.000875, respectively. The Board recommended an increased assessment rate to generate larger revenue to meet its expenses and keep its reserves at an acceptable level.

In deriving the recommended assessment rates, the Board determined assessable tart cherry production for the fiscal period at 260 million pounds. However, the tart cherry industry experienced a severe frost, mainly in Michigan, which significantly reduced the crop. The tart cherry industry is expected to only produce 60 million pounds. The Board staff has responded to this decrease in funds by reducing staff and Committee travel for meetings and is expected to use reserve funds to continue administrative operations this season. Therefore, total assessment income for 2002–2003 is estimated at $114,000. This amount plus adequate funds in the reserve and interest income would be adequate to cover budgeted expenses. Funds in the reserve (approximately $233,000) would be kept within the approximately six months' operating expenses as recommended by the Board consistent with § 930.42(a).

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

Although the assessment rates are effective for an indefinite period, the Board 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 rates. The dates and times of Board meetings are available from the Board or the USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modifications of the assessment rates are needed. Further rulemaking would be undertaken as necessary. The Board's 2002–2003 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the USDA.

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) allows 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's Fruit and Vegetable Programs (Programs) no longer opts for such certification, but rather performs 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 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 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $5,000,000, and small agricultural producers are those whose annual receipts are less than $750,000. A majority of the tart cherry handlers and producers may be classified as small entities.

The Board unanimously recommended 2002–2003 expenditures of $522,500 and assessment rate increases from $0.00175 to $0.0019 per pound for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree, and from $0.000875 to $0.0019 per pound for cherries utilized for juice, juice concentrate, or puree.

This proposed rule would increase the assessment rate established for the Board and collected from handlers for the 2002–2003 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products to $0.0019 per pound. The Board unanimously recommended 2002–2003 expenditures of $522,500. The quantity of assessable tart cherries expected to be produced during the 2002–2003 crop year was estimated at 260 million pounds. However, the tart cherry industry experienced a severe frost, mainly in Michigan, which has significantly reduced the crop. The tart cherry industry is expecting to only produce 60 million pounds during 2002–03. The Board staff has responded to this decrease in funds by reducing staff and Committee travel for meetings and is expected to use reserve funds to continue administrative operations this season. Assessment income, based on this crop, along with interest income and reserves, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Board for the 2002–2003 fiscal period include $85,000 for meetings, $170,000 for compliance, $185,000 for personnel, $80,000 for office expenses, and $2,500 for industry educational efforts. Budgeted expenses for those items in 2001–2002 were $80,000 for meetings, $100,000 for compliance, $185,000 for personnel, $75,000 for office expenses, and $2,500 for industry educational efforts, respectively.

The Board discussed the alternative of continuing the existing assessment rates, but concluded that would cause the amount in the operating reserve to be reduced to an unacceptable level.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. Data from the National Agricultural Statistics Service (NASS) states that during the period 1995/96 through 2002/03, approximately 92 percent of the U.S. tart cherry crop, or 285.7 million pounds, was processed annually. Of the 285.7 million pounds of tart cherries processed, 58 percent was frozen, 30 percent was canned, and 12 percent was utilized for juice.

Based on NASS data, acreage in the United States devoted to tart cherry production has been trending downward. Since 1987/88 tart cherry bearing acres have decreased from 50,050 acres, to 36,900 acres in the 2002/03 crop year. In 2002/03, 93 percent of domestic tart cherry acreage was located in four States: Michigan, New York, Utah, and Wisconsin. Michigan leads the nation in tart cherry acreage with 74 percent of the total production. Michigan produces about 75 percent of the U.S. tart cherry crop each year. Tart cherry acreage in Michigan decreased from 28,500 acres in 2000–2001, to 27,400 acres in 2002–2003.

A review of historical information and preliminary information pertaining to the 2002–2003 fiscal period indicates that the grower price could range between $0.448 and $0.45 cents per pound of tart cherries. This is a high price due to the short crop this year. Therefore, the estimated assessment revenue for the 2002–2003 fiscal period as a percentage of total grower revenue could be less than one-half of one percent.

While this action will impose additional costs on handlers, the costs are in the form of assessments which are applied uniformly. Some of the costs may also be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. 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 24, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will impose no 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.

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 2002–2003 fiscal period began on July 1, 2002, and ends on June 30, 2003, and the marketing order requires that the rates of assessment for each fiscal period apply to all assessable tart cherries handled during such fiscal period; (2) the Board needs the funds to operate the program; and (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting. 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. Section 930.200 is revised to read as follows:

§ 930.200 Handler assessment rate.

On and after July 1, 2002, the assessment rate imposed on handlers shall be $0.0019 per pound of cherries handled for tart cherries grown in the production area.

Dated: May 16, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 03–12804 Filed 5–21–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2003–15124; Airspace Docket No. 03–ASO–5]

Proposed Amendment of Class E5 Airspace; Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E5 airspace at Augusta, GA. A Area Navigation (RNAV) Global Positioning System (GPS) Runway (RWY) 17 Standard Instrument Approach Procedure (SIAP) to Augusta Regional at Bush Field Airport has been developed. Additionally, it has been determined a modification should be made to the Augusta, GA, Class E5 airspace area to contain the Nondirectional Radio Beacon (NDB) or GPS RWY 17 SIAP to Augusta Regional at Bush Field Airport. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain these SIAPs.

DATES: Comments must be received on or before June 23, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15124/Airspace Docket No. 03–ASO–5, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal