Delta County. The entire county.
Dickinson County. The entire county.
* * * * *
Marquette County. The entire county.
* * * * *
Menominee County. The entire county.
* * * * *
Schoolcraft County. The entire county.
* * * * *

Ohio

Ashland County. The entire county.
* * * * *
Defiance County. The entire county.
Erie County. The entire county.
Fulton County. The entire county.
* * * * *
Henry County. The entire county.
* * * * *
Licking County. The entire county.
* * * * *
Muskingum County. The entire county.
Noble County. The entire county.
* * * * *
Sandusky County. The entire county.
* * * * *
Williams County. The entire county.
Wood County. The entire county.
* * * * *

Virginia

* * * * *
City of Bedford. The entire city.
* * * * *
City of Danville. The entire city.
* * * * *
City of Lynchburg. The entire city.
* * * * *
City of South Boston. The entire city.
* * * * *
Alleghany County. The entire county.
* * * * *
Bedford County. The entire county.
Botetourt County. The entire county.
* * * * *

Wisconsin

* * * * *
Dodge County. The entire county.
* * * * *
Fond du Lac. The entire county.
* * * * *

Done in Washington, DC, this 21st day of July 1999.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–19139 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV99–930–3 IFR]

Tart Cherries Grown in the States of Michigan, et al.; Decreased Assessment Rates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound. It also decreases the assessment rate for cherries utilized for juice, juice concentrate, or puree from $0.00125 to $0.001125 per pound. Both assessment rates are established for the Cherry Industry Administrative Board (Board) under Marketing Order No. 930 for the 1999–2000 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 begins July 1 and ends June 30. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 28, 1999. Comments received by September 27, 1999, 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 to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.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.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2530-S, PO Box 96456, Washington, DC 20090–6456, telephone: (202) 720–2491; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. 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, PO Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720–2491; Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may also view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

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 rates as issued herein will be applicable to all assessable tart cherries beginning July 1, 1999, 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 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.

This rule decreases the assessment rate established for the Board for the 1999–2000 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound of cherries. The assessment rate for cherries utilized for juice, juice concentrate, or puree is decreased from $0.00125 to $0.001125 per pound.

The tart cherry marketing order provides authority for the Board, with the approval of the Department, 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 rates. 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 1997–98 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 Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on March 18–19, 1999, and unanimously recommended 1999–2000 expenditures of $487,780 and an assessment rate of $0.00225 per pound for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree, and an assessment rate of $0.001125 per pound for cherries utilized for juice, juice concentrate, or puree. In comparison, last year's budgeted expenditures were $540,000. Decreased assessment rates have been recommended by the Board because the cherry industry has experienced record high crops for the past two seasons, and anticipates another large crop in 1999–2000. In addition, the Board wants to reduce handler costs and keep its monetary reserve within the authorized maximum of approximately one year's operational expenses specified in § 930.42(a). The decreased rates are expected to generate enough income to meet the Board's reduced operating expenses in 1999–2000.

The major expenditures recommended by the Board for the 1999–2000 fiscal period include $222,780 for personnel, $100,000 for Board meetings, and $100,000 for compliance. Budgeted expenses for these items in 1998–99 were $150,000 for personnel, $80,000 for Board meetings, and $175,000 for compliance.

The order provides that when an assessment rate based on the number of pounds of tart 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's promulgation record indicates that proponents testified that cherries utilized in high value products such as frozen, canned, or dried cherries should be assessed one rate while cherries used to make low value products such as juice concentrate or puree should be assessed at one-half that rate.

Data from the National Agricultural Statistics Service (NASS) states that for 1998, tart cherry utilization for juice, wine, or brined uses was 28.3 million pounds for all districts covered under the order. The total processed amount of tart cherries for 1998 was 303.8 million pounds. Juice, wine, and brined tart cherries represented less than 10 percent of the total processed crop, and about 8 percent over the last three seasons (1996 through 1998).

In deriving the recommended assessment rates, the Board estimated assessable tart cherry production for the crop year at 260 million pounds. It further estimated that about 204.5 million pounds of the assessable poundage would be utilized in the production of high-valued products, like frozen, canned, or dried cherries, and that about 55.5 million pounds would be utilized in the production of low-valued products, like juice, juice concentrate, or puree. Potential assessment income from the high valued products would be approximately $460,125 (204.5 million pounds × $0.00225 per pound). The potential income from tart cherries utilized for juice, juice concentrate, or puree would be $62,500 (55.5 million pounds × $0.001125 per pound). Therefore, total assessment income for 1999–2000 is estimated at $522,625, which will be adequate to cover budgeted expenses. Funds in the reserve (currently $225,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 930.42(a)).

The assessment rates established in this 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 rates are 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 rates. 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 modifications of the assessment rates are needed. Further rulemaking will be undertaken as necessary. The Board's 1999–2000 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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' 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. The number of reported tart cherry producers in the regulated area has been reduced from 1,220 to 900 based on more recent information received by the Board. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $5,000,000, and small agricultural producers are those whose annual receipts are less than $500,000. The majority of tart cherry handlers and producers may be classified as small entities.

This rule decreases the assessment rate established for the Board and collected from handlers for the 1999–2000 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from $0.0025 to $0.00225 per pound, and the assessment rate for cherries utilized for juice, juice concentrate, or puree from $0.00125 to $0.001125 per pound. The Board unanimously recommended 1999–2000 expenditures of $487,780 and the reduced assessment rates. The quantity of assessable tart cherries expected to be produced during the 1999–2000 crop year is estimated at 260 million pounds. Assessment income, based on this crop, will be adequate to cover budgeted expenses.

The major expenditures recommended by the Board for the 1999–2000 fiscal period include $222,780 for personnel, $100,000 for Board meetings, and $100,000 for compliance. Budgeted expenses for these items in 1998–99 were $150,000 for personnel, $80,000 for Board meetings, and $175,000 for compliance.

The Executive Committee of the Board, after discussing a proposed budget and assessment rates in executive session, recommended the continuation of the current rates. It concluded that it was prudent for the Board to have approximately one year's budget amount in the operating reserve.

However, after considerable discussion, the Board concluded it should reduce handlers' assessment costs and that the reserve should not exceed one-half year's budget amount. Also, the cherry industry has experienced record large crops for the past two seasons, and anticipates a large crop for the upcoming season. Further, the amount budgeted for Board compliance costs has been reduced. The Board discussed the alternative of continuing the existing assessment rates, but concluded that would cause the amount in the operating reserve to exceed what is actually needed.

After the discussion, the Board voted unanimously to decrease the assessment rates. In deriving the recommended assessment rates, the Board estimated assessable tart cherry production for the crop year at 260 million pounds. It further estimated that about 204.5 million pounds of the assessable poundage would be utilized in the production of high-valued products, like frozen, canned, or dried cherries, and that about 55.5 million pounds would be utilized in the production of low-valued products, like juice, juice concentrate, or puree. Potential assessment income from the high valued products would be approximately $460,125 (204.5 million pounds × $0.00225 per pound). The potential income from the tart cherries utilized for juice, juice concentrate, or puree would be $62,500 (55.5 million pounds × $0.001125 per pound). Therefore, total assessment income for 1999–2000 is estimated at $522,625, which will be adequate to cover budgeted expenses. Funds in the reserve (currently $225,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 930.42(a)).

This action decreases 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, the assessment rate decreases reduce the burden on handlers, and may reduce the burden on producers. 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 March 18–19, 1999, meeting was a public meeting and all entities, both large and small, 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 action imposes 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.

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

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.

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) The 1999–2000 fiscal period began on July 1, 1999, 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) this action decreases the assessment rates for assessable tart cherries beginning on July 1, 1999; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

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. Section 930.200 is revised to read as follows:

§ 930.200 Handler assessment rates.

On and after July 1, 1999, the assessment rate imposed on handlers shall be $0.00225 per pound 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 tart cherries grown in the production area and utilized in the production of juice, juice concentrate, or puree products shall be $0.001125 per pound. The assessment due date shall be October 1 of each crop year.

Dated: July 21, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–19062 Filed 7–26–99; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–155–AD; Amendment 39–11229; AD 99–15–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–600 series airplanes. This action requires revising the Airplane Flight Manual (AFM) to prohibit operation of the airplane under certain conditions; repetitive inspections of the tab mast fittings of the elevator tab assemblies to detect cracking; an elevator tab freeplay check; and corrective actions, if necessary. This AD also requires installing an additional fastener on the elevator tab mast fitting, which terminates the AFM revision and extends certain repetitive inspections. This AD also requires replacement of the elevator tab mast fitting with a new, improved fitting, which constitutes terminating action for the requirements of this AD. This amendment is prompted by a report of a severe vibration incident on a Boeing Model 737–800 series airplane; inspection revealed fracturing of the elevator tab mast fitting and excessive freeplay in the elevator tab. The actions specified in this AD are intended to prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab.

DATES: Effective August 11, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 11, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–155–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory L. Schneider, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On June 2, 1999, the FAA received a report of a severe vibration incident on a Boeing Model 737–800 series airplane, which had accumulated 3,517 total flight hours and 1,284 total flight cycles. The airplane was involved in a high-speed descent with speed brakes extended while operating at an airspeed of 320 knots. During the descent, severe vibration occurred at 250 knots. At 230 knots, the speed brakes were retracted and the vibration stopped. The landing was uneventful.

Inspection of the airplane revealed that the upper flange of the right elevator tab mast fitting, to which the elevator tab push rods are attached, was found fractured. The lower flange of the fitting was not damaged. In addition, excessive freeplay in the elevator tab also was observed and measured during the inspection.

Further analysis confirmed that the damage to the fitting was aggravated by speed-brake-induced airframe vibration. Such vibration could lead to damage of the elevator tab mast fitting, excessive freeplay in the tab, and consequent separation of the tab mast fitting from the tab. Excessive freeplay in the tab could result in severe airframe vibration and consequent damage to the tab, elevator, and horizontal stabilizer. Separation of the elevator tab mast fitting will result in a free tab. These conditions, if not corrected, could result in loss of controllability of the airplane.

In light of this information, on June 10, 1999, the FAA issued telegraphic AD T99–13–51, which is applicable to certain Boeing Model 737–700 and –800 series airplanes. In addition, the FAA has received information indicating that Boeing Model 737–600 series airplanes also are subject to the unsafe condition identified in telegraphic AD T99–13–51. Therefore, the FAA has determined that rulemaking action is necessary to address that unsafe condition on Model 737–600 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, which describes procedures for repetitive high frequency eddy current (HFEC) and detailed visual inspections of the tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect excessive freeplay of the elevator tabs; and corrective actions, if necessary. The alert service bulletin also describes procedures for installing an additional high-strength fastener on the elevator tab mast fitting (time-limited modification).

The FAA also has reviewed and approved Boeing Service Bulletin 737–55–1063, dated July 1, 1999, which describes procedures for replacing a cracked elevator tab mast fitting with a new, improved fitting. Such replacement eliminates the need for repetitive inspections of the elevator tab mast fittings.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab. This AD requires revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to prohibit operation of the airplane at certain airspeeds with the speed brakes extended, and at certain altitudes.

This AD also requires repetitive HFEC and detailed visual inspections of the tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect excessive freeplay of the elevator tab; and corrective actions, if necessary.

Additionally, this AD requires installing an additional high-strength fastener on the elevator tab mast fitting (time-limited modification). Such installation terminates the AFM revision and allows extension of the repetitive interval for accomplishment of the HFEC and detailed visual inspections.

This AD also requires replacement of the elevator tab mast fittings with new, improved fittings, which constitutes