The Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend and participate in Board deliberations on all issues. Like all Board meetings, the June 25, 2015, meeting was a public meeting and all entities, both large and small, were able to express views on these issues.

A proposed rule concerning this action was published in the **Federal Register** on June 15, 2016 (81 FR 38975). Copies of the rule were mailed or sent via facsimile to all Board members and tart cherry handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending July 15, 2016, was provided to allow interested persons to respond to the proposal.

One comment was received during the comment period in response to the proposal. The commenter is an individual who supports the proposed action. The commenter described the proposed changes as positive for the industry. Accordingly, no changes will be made to the rule as proposed, based on the comment received.

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/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already putting cherries into reserve. This action also needs to be in place before the Board meets in September to discuss establishing volume control, including determining an appropriate carry-out figure. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed 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. In § 930.151:

■ a. Designate the current paragraph as paragraph (a); and

■ b. Add a new paragraph (b) to read as follows:

§ 930.151 Desirable carry-out inventory.

(a) * * *

(b) Beginning with the crop year starting July 1, 2016, for the purposes of determining an optimum supply volume, the Board may recommend a desirable carry-out inventory not to exceed 100 million pounds.

■ 3. Section 930.154 is added to read as follows:

§ 930.154 Release of inventory reserve cherries.

(a) As provided in § 930.54, the Board may recommend a release of a portion or all of the primary and/or secondary reserve cherries. The total available reserves will be determined at the beginning of the crop year. The primary reserve as defined in §§ 930.55 and 930.150 must be depleted before the secondary reserve can be released. If a release is recommended, the recommended volume shall be apportioned to handlers on the basis of each handler's proportion of the total volume handled in the preceding three crop years.

(b) If a handler has less volume in reserve than is apportioned, the excess volume shall be reapportioned to those who still have volume in reserve until the total release is complete.

Dated: September 12, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–22258 Filed 9–15–16; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Docket No. AMS–SC–16–0076 SC16–983–2 IR]

Pistachios Grown in California, Arizona, and New Mexico; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a recommendation from the Administrative Committee for Pistachios (Committee) for a decrease in the assessment rate established for the 2016–17 and subsequent production years from $0.0035 to $0.0010 per pound of assessed weight pistachios handled under the marketing order (order). The Committee locally administers the order and is comprised of producers and handlers of pistachios operating within the area of production. Assessments upon pistachio handlers are used by the Committee to fund reasonable and necessary expenses of the program. The production year begins September 1 and ends August 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective September 19, 2016; Comments received by November 15, 2016 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, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Peter R. Sommers, Marketing Specialist,

or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *PeterR.Sommers@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 983, both as amended (7 CFR part 983), regulating the handling of pistachios grown in California, Arizona, and New Mexico, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California, Arizona, and New Mexico pistachio handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable pistachios beginning September 1, 2016, and continue until amended, suspended, or terminated.

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

This rule decreases the assessment rate for the 2016–17 and subsequent production years from $0.0035 to $0.0010 per pound of assessed weight pistachios.

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

For the 2015–16 and subsequent production years, the Committee recommended and USDA approved an assessment rate that would continue in effect from production year to production year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 12, 2016, and unanimously recommended 2016–17 expenditures of $922,500, and an assessment rate of $0.0010 per pound of assessed weight pistachios. In comparison, last year's budgeted expenditures were $1,056,402, and the assessment rate was $0.0035 per pound of pistachios. The assessment rate of $0.0010 is $0.0025 lower than the rate currently in effect.

The major expenditures recommended by the Committee for the 2016–17 production year include $333,000 for salaries and benefits, $250,000 for research, and $19,500 for general and administrative expenses. Budgeted expenses for these items in the 2015–16 production year were $316,500, $560,000, and $19,500, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of California, Arizona, and New Mexico pistachios. Pistachio shipments for the production year are estimated at 750 million pounds which should provide $750,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum limit permitted by the order, which is two production years' budgeted expenses.

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

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each production year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2016–17 production year budget and those for subsequent production years will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 1,152 producers of pistachios in the production area and 19 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those having annual receipts less than $750,000, and small agricultural service firms as those whose annual receipts are less than $7,500,000. (13 CFR 121.201)

Based on Committee data, it is estimated that about 53 percent of the handlers annually ship less than $7,500,000 worth of pistachios, and it is also estimated that 68 percent of the producers have annual receipts less than $750,000. Thus, the majority of handlers in the production area and more than two-thirds of the producers may be classified as small entities.

This rule decreases the assessment rate collected from handlers for the 2016–17 and subsequent production years from $0.0035 to $0.0010 per pound of pistachios handled. The Committee unanimously recommended 2016–17 expenditures of $922,500 and an assessment rate of $0.0010 per pound of assessed weight pistachios, which is $0.0025 lower than the 2015–16 rate currently in effect. The quantity of assessable pistachios for the 2016–17 production year is estimated at 750 million pounds. Thus, the $0.0010 rate should provide $750,000 in assessment income. Income derived from handler's assessments, along with interest and funds from the Committee's authorized reserve, should be adequate to cover expenses for the 2016–17 production year.

The major expenditures recommended by the Committee for the 2016–17 production year include $333,000 for salaries and benefits, $250,000 for research, and $19,500 for general and administrative expenses. Budgeted expenses for these items in the 2015–16 production year were $316,500, $560,000, and $19,500, respectively.

The assessment rate decrease is necessary to reduce expected income from an assessment rate set at $0.0035 per pound. The income from that assessment rate would result in the Committee's financial reserve being higher than is permitted under the order. The $0.0035 rate was established to provide sufficient income when the crop was expected to be approximately half of a normal crop. For these reasons, the Committee unanimously voted to decrease the assessment rate from $0.0035 to $0.0010. The income generated from the lower recommended rate combined with funds from the financial reserve should provide sufficient income to cover anticipated 2016–17 expenses and maintain the financial reserve within the limit specified under the marketing order.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources. Alternative expenditure levels were discussed, based upon the relative value of various activities to the pistachio industry. The Committee ultimately determined that the 2016–17 production year expenses of $922,500 were prudent, and the assessment income provided by the reduced rate and funds from the financial reserve would permit the committee to meet its expenses.

According to data from the National Agricultural Statistics Service, the season average producer price was $3.57 per pound of assessed weight pistachios in 2014 and $2.48 per pound in 2015. A review of historical and preliminary information pertaining to the upcoming production year indicates that the producer revenue for the 2016–17 production year could range between $1,860,000,000 and $2,677,500,000. Therefore, the estimated assessment revenue for the 2016–17 production year as a percentage of total producer revenue could range between 0.0004 and 0.00028 percent.

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, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee meeting was widely publicized throughout the California, Arizona, and New Mexico pistachio industry, and all interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues.

Like all Committee meetings, the July 12, 2016, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Industry members also discussed various assessment rates, potential crop size, and estimated expenses at this meeting. Finally, interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0215, ''Vegetable and Specialty Crop Marketing Orders.'' No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large California, Arizona, and New Mexico pistachio 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.

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

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee 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 2016–17 production year begins on September 1, 2016, and the order requires that the rate of assessment for each production year apply to all assessable pistachios handled during such production year; (2) the action decreases the assessment rate for assessable pistachios beginning with the 2016–17 production year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim 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 983

Pistachios, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

PART 983—PISTACHIOS GROWN IN CALIFORNIA, ARIZONA, AND NEW MEXICO

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 983.253 is revised to read as follows:

§ 983.253 Assessment rate.

On and after September 1, 2016, an assessment rate of $0.0010 per pound is established for California, Arizona, and New Mexico pistachios.

Dated: September 12, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–22248 Filed 9–15–16; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–1529; RIN 7100 AE–43]

Regulatory Capital Rules: The Federal Reserve Board's Framework for Implementing the U.S. Basel III Countercyclical Capital Buffer

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final policy statement.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a final policy statement (Policy Statement) describing the framework that the Board will follow under its Regulation Q in setting the amount of the U.S. countercyclical capital buffer for advanced approaches bank holding companies, savings and loan holding companies, and state member banks.

DATES: The Policy Statement is effective October 14, 2016.

FOR FURTHER INFORMATION CONTACT: William Bassett, Deputy Associate Director, (202) 736–5644, or Rochelle Edge, Deputy Associate Director, (202) 452–2339, Division of Financial Stability; Sean Campbell, Associate Director, (202) 452–3760, Division of Banking Supervision and Regulation; Benjamin W. McDonough, Special Counsel, (202) 452–2036, Mark Buresh, Senior Attorney, (202) 452–5270, or Mary Watkins, Attorney, (202) 452–3722, Legal Division.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

In December 2015, the Board invited public comment on a proposed policy statement describing the framework that the Board would use to set the amount of the U.S. countercyclical capital buffer (CCyB) under the Board's capital rules (Regulation Q).[1] The CCyB is a macroprudential policy tool that the Board can increase during periods of rising vulnerabilities in the financial system and reduce when vulnerabilities recede or when the release of the CCyB would promote financial stability.[2] The CCyB supplements the minimum capital requirements and other capital buffers included in Regulation Q, which themselves are designed to provide substantial resilience to unexpected losses created by normal fluctuations in economic and financial conditions.

The proposed policy statement outlined the factors the Board would consider in setting the level of the CCyB, and the indicators it would monitor to help determine whether an adjustment to the CCyB is appropriate. The proposed policy statement also described the effects the Board will monitor in determining whether the CCyB is achieving the desired purposes of the CCyB.

The Board received two comments on the proposed policy statement. Commenters raised concerns about the process that the Board would follow in setting the CCyB pursuant to the policy statement, the potential economic impact of the CCyB, and the efficacy and appropriateness of the CCyB as a policy tool. Commenters also made various specific suggestions as to the indicators and standards that the Board should consider in determining whether to activate the CCyB.

After reviewing comments, the Board is revising the final Policy Statement to clarify the following key items: (1) That the Board expects that the CCyB will be activated when systemic vulnerabilities are meaningfully above normal and that the Board generally intends to increase the CCyB gradually, (2) that the Board expects to remove or reduce the CCyB when the conditions that led to its activation abate or lessen and when the release of CCyB capital would promote financial stability. The discussion in Sections II and IV below responds to comments on the proposal regarding the Board's process for setting the CCyB. In particular, as indicated below, the Board would seek comment on any proposed change to the CCyB amount and include a discussion of the reasons for the change.

II. Purpose of CCyB

The CCyB is designed to increase the resilience of large banking organizations when the Board sees an elevated risk of above-normal losses. Increasing the resilience of large banking organizations should, in turn, improve the resilience of the broader financial system. Above-normal losses often follow periods of rapid asset price appreciation or credit growth that are not well supported by underlying economic fundamentals. As stated in the proposed policy statement, the circumstances in which the Board would most likely use the CCyB as a supplemental, macroprudential tool to augment minimum capital requirements and other capital buffers would be to address circumstances when systemic vulnerabilities are somewhat above normal. By requiring institutions to hold a larger capital buffer during periods when systemic risk is increasing and reducing the buffer requirement as vulnerabilities diminish, the CCyB also has the potential to moderate fluctuations in the supply of credit over time.

The CCyB functions as an expansion of the Capital Conservation Buffer (CCB), which is applicable to all banking organizations subject to Regulation Q. To avoid limits on capital distributions and certain discretionary bonus payments,[3] the CCB requires that a banking organization hold a buffer of common equity tier 1 capital that is at least 2.5 percent of the risk-weighted assets in addition to the minimum risk-based capital ratios. The CCB is divided into quartiles, each associated with increasingly stringent limitations on capital distributions and certain discretionary bonus payments as the firm's risk-based capital ratios approach regulatory minimums.[4] The CCyB is an additional, countercyclical buffer that has the same limitations on dividends and capital distributions as the CCB.

---

[1] 12 CFR part 217. *See also* 81 FR 5661 (February 3, 2016).

[2] *See* 12 CFR 217.11(b). Implementation of the CCyB also helps respond to the provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that the agencies ''shall seek to make such [capital] requirements countercyclical, so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the company.'' *See* 12 U.S.C. 1467a; 12 U.S.C. 1844; 12 U.S.C. 3907 (as amended by section 616 of the Dodd-Frank Act).

[3] 12 CFR 217.11(b)(1)(i).

[4] 12 CFR 217.11(a).