

whether varying rates should be recommended for cherries manufactured into different products.

In addition, the amended order provides that the assessment rate not apply to cherries diverted in orchard by growers, and those diverted by handlers through destruction at their plants. The Board recommended the amendment to allow them to establish one assessment rate for all tart cherry products handled. In making its recommendation, the Board stated that while a two-tiered assessment rate scheme may be appropriate in some years, it may not be in others due to the fact that the absolute and relative market values of various tart cherry products fluctuate from year to year.

The amended order specifically provides that under section 930.41(f)(1) and (2) the established assessment rate may be uniform, or may vary depending on the product the cherries are used to manufacture. The Board must consider the differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products.

On June 25, 2003 (68 FR 37726), a final rule was published in the **Federal Register** that established a single assessment rate for the 2002–2003 fiscal period for all tart cherries handled regardless of the product the cherries are used to manufacture. The Board determined that the markets for juice, juice concentrate, and puree were gaining in importance and that cherries used in such products should be assessed the same as those sold for use in assorted bakery items, as canned pie fill and as dried cherries.

The Board considered the above items and decided that one assessment rate should be recommended for all cherry products during 2003–2004. 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 seen 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 was about 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 that the price for five plus one product was 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 5 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 costs of juice, juice concentrate, and puree, the Board has determined that current prices are similar for these products when compared to the 5 plus 1 product. 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 last season's 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 that is 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 2003–04 fiscal period.

Budgeted expenditures for the 2003–04 fiscal period were unanimously recommended at \$532,000. The major expenditures recommended by the Board for the 2003–2004 fiscal period include \$81,000 for meetings, \$149,000 for compliance, \$191,000 for personnel, \$106,000 for office expenses, and \$5,000 for industry educational efforts.

Budgeted expenses for those items in 2002–2003 were \$85,000 for meetings, \$170,000 for compliance, \$185,000 for personnel, \$80,000 for office expenses, and \$2,500 for industry educational efforts, respectively. In comparison, last year's budgeted expenditures were \$522,500. Last season, the tart cherry industry experienced a significant frost mainly in Michigan which severely impacted the crop. Only 60 million pounds of cherries were produced in comparison to a normal crop of about 260 million pounds. The Board staff has responded to this decrease in funds by cutting its expenditures. The Board reduced its staff and Committee travel for meetings and used reserve funds to continue administrative operations in 2002–2003.

The recommended assessment rate of \$0.0021 is higher than the current rate of \$0.0019 per pound. 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 rate in January, the Board estimated assessable tart cherry production for the fiscal period at 260 million pounds. However, actual production was 222 million pounds. Therefore, total assessment income for 2003–2004 based on actual production of 222 million pounds is \$466,200. This amount plus adequate funds in the reserve and interest income will be adequate to cover budgeted expenses. Funds in the reserve (approximately \$66,000) will be kept within the approximately six months' operating expenses as recommended by the Board consistent with section 930.42(a).

The assessment rate established in this rule will 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 rate is 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 rate. The dates and times of Board meetings are available from the Board or the USDA. Board meetings are