

determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

#### List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 923 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the Washington Cherry Marketing Committee:

#### Proposal No. 1

Amend § 923.45 to read as follows:

##### **§ 923.45 Production and marketing research, promotion and market development.**

The committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing,

distribution, consumption or efficient production of cherries. The expense of such projects shall be paid from funds collected pursuant to §§ 923.41 and 923.43.

#### Proposal No. 2

In § 923.41, redesignate paragraph (c) as paragraph (d) and add a new paragraph (c) to read as follows:

##### **§ 923.41 Assessments.**

\* \* \* \* \*

(c) Based upon a recommendation of the committee or other available data, the Secretary shall fix the rate of assessment that handlers shall pay on all cherries handled during each fiscal period, and may also fix supplemental rates of assessment on individual varieties or subvarieties to secure sufficient funds to provide for projects authorized under § 923.45. At any time during the fiscal period when it is determined on the basis of a committee recommendation or other information that a different rate is necessary for all cherries or for any varieties or subvarieties, the Secretary may modify a rate of assessment and such new rate shall apply to any or all varieties or subvarieties that are shipped during the fiscal period.

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#### Proposal No. 3

Add a new § 923.43 to read as follows:

##### **§ 923.43 Contributions.**

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 923.45. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

#### Proposal No. 4

Revise § 923.20 to read as follows:

##### **§ 923.20 Establishment and membership.**

There is hereby established a Washington Cherry Marketing Committee consisting of seventeen members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten members and their respective alternates shall be growers or officers or employees of corporate growers. Six of the members and their respective alternates shall be handlers, or officers or employees of handlers. One member and his or her respective alternate shall be a public member who is neither a grower nor a handler. The ten members of the committee who are growers or

employees or officers of corporate growers are referred to in this part as “grower members” of the committee; and six members of the committee who shall be handlers, or officers or employees of handlers are referred to in this part as “handler members” of the committee. Five of the grower members and their respective alternates shall be producers of cherries in District 1, and five of the grower members and their respective alternates shall be producers of cherries in District 2. Three of the handler members and their respective alternates shall be handlers of cherries in District 1, and three of the handler members and their representative alternates shall be handlers of cherries in District 2.

Amend § 923.22 by adding a new paragraph (b)(4) to read as follows:

##### **§ 923.22 Nomination.**

\* \* \* \* \*

(4) The grower and handler members of the committee shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office.

USDA proposes the following:

#### Proposal No. 5

Revise § 923.21 to read as follows:

##### **§ 923.21 Term of office.**

The term of office of each member and alternate member of the committee shall be for two years beginning April 1 and ending March 31. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms must leave the committee for at least one year before becoming eligible to serve again.

#### Proposal No. 6

In § 923.64, redesignate paragraph (d) as paragraph (e), and add a new paragraph (d) to read as follows:

##### **§ 923.64 Termination.**

\* \* \* \* \*

(c) The Secretary shall terminate the provisions of this part whenever it is found that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of cherries: *Provided*, that such majority has, during such representative period, produced for market more than 50 percent of the volume of such cherries produced for market.