

New York, Utah, and Wisconsin. Michigan leads the nation in tart cherry acreage with 74 percent of the total. 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.

In deriving the recommended assessment rate, the Board estimated assessable tart cherry production for the fiscal period at 260 million pounds. Cherries used for handler destruction and grower diversion outlets are exempt from assessment obligations. Funds in the reserve (approximately \$66,000) will be kept within the approximately six months' operational expenses as recommended by the Board which would be consistent with the order (§ 930.42(a)).

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 23, 2003, 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 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/oaob/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 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2003–2004 fiscal begins on July 1, 2003, and ends on June 30, 2004, and the

marketing order requires that the rate 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, 2003, the assessment rate imposed on handlers shall be \$0.0021 per pound of tart cherries grown in the production area and utilized in the production of tart cherry products.

Dated: July 22, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Services.*

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**BILLING CODE 3410–02–M**

#### **SMALL BUSINESS ADMINISTRATION**

##### **13 CFR Part 121**

#### **Small Business Size Standards; Waiver of the Nonmanufacturer Rule**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the nonmanufacturer rule for ammunition (except small arms) manufacturing.

**SUMMARY:** The U.S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Ammunition (Except Small Arms) Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver

would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

**DATES:** Comments and sources must be submitted on or before August 8, 2003.

**ADDRESSES:** Address comments to: Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC, 20416, Tel: (202) 619–0422.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, (202) 619–0422 FAX (202) 205–7280.

**SUPPLEMENTARY INFORMATION:** Pub. L. 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any “class of products” for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines “class of products” based on six digit coding systems.

The first coding system is the Office of Management and Budget *North American Industry Classification System (NAICS)*. The second is the Product and Service Code established by the Federal Procurement Data System.

The U.S. Small Business Administration is currently processing a request to waive the Nonmanufacturer Rule for Ammunition (Except Small Arms) Manufacturing, North American Industry Classification System (NAICS) 332993. The public is invited to comment or provide source information to SBA on the proposed waiver of the

nonmanufacturer rule for this NAICS code.

**Linda G. Williams,**

*Associate Administrator for Government Contracting.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1275

[Notice 03-083]

RIN 2700-AC50

#### Investigation of Research Misconduct

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) proposes this rule to implement the "Federal Policy on Research Misconduct" (the Federal Policy). This proposed rule sets out the definition of research misconduct, procedure for investigating allegations of research misconduct and recommending findings, and procedure for adjudicating and appealing such findings. Findings of research misconduct must be accompanied by recommendations for administrative action by NASA to discourage such behavior and ensure the integrity of research funded or supported by NASA.

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

**ADDRESSES:** Send comments to: NASA Policy on Research Misconduct (NPRM) Comments, Office of the Chief Scientist, Code AS, National Aeronautics and Space Administration, 300 E Street SW., Washington, DC 20546-0001. NASA will consider late comments to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Mayra N. Montrose, (202) 358-1492 (voice), (202) 358-3931 (fax).

**SUPPLEMENTARY INFORMATION:** The objective of the Federal Policy is to create a uniform policy framework for Federal agencies for the handling of allegations of misconduct in Federally funded or supported research. Within this framework, each Federal agency funding or supporting research is expected to fashion its own regulations to accommodate the various types of research transactions in which it is engaged.

In keeping with these objectives, the proposed NASA rule incorporates key aspects of the Federal policy, including the definition of research misconduct as

fabrication, falsification or plagiarism, and the definitions of each of these sub-components; the requirements for a finding of research misconduct; and the four-stage process for determining research misconduct; *i.e.*, inquiry, investigation, adjudication, and appeal.

NASA's research mission involves the advancement of research in the fields of aeronautics, space science, earth science, biomedicine, biology, engineering, and physical sciences (physics and chemistry). NASA fulfills this objective through intramural research performed by NASA researchers and through extramural contracts, cooperative agreements, grants, and Space Act agreements with the private sector, and with other governmental entities. Because of this multiplicity of research arrangements, allegations of research misconduct could arise in any number of ways.

In addition, the core principle of the Federal Policy is that while research institutions have the primary responsibility for the inquiry, investigation, and adjudication of allegations of research misconduct, Federal agencies have ultimate oversight authority for the research it funds or supports. While there is some overlap in the actions that may be pursued by Federal agencies and research institutions, the proposed rule is designed to provide procedures and criteria for the interaction of NASA with its research partners in dealing with the various contingencies that could arise in the processing of research misconduct allegations.

For example, an allegation of research misconduct might first be submitted to NASA through the NASA Office of Inspector General (OIG). If the research in question is conducted by NASA researchers, NASA shall conduct the inquiry, investigation, adjudication, and appeal stages. If the research is conducted by a research institution, the OIG shall ordinarily forward the allegation to that institution for inquiry and investigation and decide whether NASA shall conduct a parallel inquiry or investigation or defer its procedures pending completion of the investigative proceedings of the institution. The criteria for these decisions are set forth in the proposed rule.

On the other hand, if the allegation is received by the institution, the institution must inform the OIG if its inquiry determines that an investigation is warranted at which time, the OIG determines whether the OIG should conduct a parallel investigation.

In all cases, the investigation report and supporting evidence must be forwarded to NASA for adjudication

and possible remedial administrative action. If the OIG deferred NASA's procedures pending review of the results of the research institution's investigative process, the OIG shall decide whether to recommend to the NASA Adjudication Official acceptance of the research institution's investigation report and final determination, in whole or in part. If the OIG makes such a recommendation, the OIG shall provide copies of the investigation report, evidentiary record, and final determination to the NASA Adjudication Official. If not, the OIG can initiate its own investigation or remand to the institution for further investigation.

With regard to any investigation conducted by the OIG, the OIG shall forward the copies of the investigation report and evidentiary record to the NASA Adjudication Official. All cases involving NASA-funded or -supported research that have gone through the investigation stage must receive an independent decision by the NASA Adjudication Official, which may be appealed.

The possible administrative actions that may be taken by NASA after research misconduct is determined to have occurred are set out in the proposed rule. The rule cannot prescribe the manner in which such action will be taken, however, as that will depend on whether the research is intramural or extramural, and if the latter, on the type of transaction being used to fund or support the research.

For example, Federal law prescribes different procedural frameworks for adverse contract actions, adverse grant actions, suspensions, or debarments from competing for Federal procurement or grant awards, and for adverse personnel actions against Federal civil service employees. In the latter instance, the OIG may proceed under its previously existing administrative investigation process when misconduct is alleged against Federal civil service employees. The proposed rule provides that the recommendations for administrative action, which must be included with a determination of research misconduct, shall be forwarded to the relevant NASA officials for their consideration. Nevertheless, a final determination of research misconduct can serve as the basis for correcting the research record and for notifying the relevant scientific review groups.

NASA shall amend 14 CFR part 1260 (Grants Handbook), 14 CFR 1274 (Commercial agreements with cost sharing), and 48 CFR Chapter 18 (NASA