2004–05 fiscal period include $550,000 for promotion, $204,000 for the Mexican Fruit Fly Support Program, $123,679 for management and administration of the program, and $72,777 for compliance. Budgeted expenses for these items in 2003–04 were $800,000, $279,000, $119,929, and $72,777, respectively.

The Committee recommended the $0.12 assessment rate primarily because it reduced its promotion and Mexican Fruit Fly programs. At a $0.14 assessment rate, the Committee projected its reserve on July 31, 2005, to be $401,160, which it believed was more than needed to administer the program. It also recommended the reduced assessment rate to lower handler costs by about $180,000 during 2004–05.

The Committee reviewed and recommended 2004–05 expenditures of $1,005,956, which included decreases in the promotion and Mexican Fruit Fly programs and an increase in the management and administration of the marketing order program. In arriving at the budget, the Committee considered information from various sources, including the Executive Committee. Alternative expenditure levels were discussed, based upon the relative need of the Mexican Fruit Fly program to the Texas citrus industry.

The assessment rate recommended by the Committee was derived by dividing the total recommended budget by the 9 million 7/10-bushel cartons of oranges and grapefruit estimated for the 2004–05 fiscal period. The $0.12 rate will provide $1,080,000 in assessment income. This is approximately $74,044 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information from recent seasons (2000–2002) and preliminary information pertaining to the upcoming fiscal period indicates that the season average packinghouse door price for the 2004–05 fiscal period could likely range from $1.40 to $2.60 per 7/10-bushel carton of Texas oranges, and from $2.15 to $2.70 for Texas grapefruit. Therefore, the estimated assessment revenue for the 2004–05 fiscal period as a percentage of total grower (packinghouse door) revenue could range between 8.6 and 4.6 percent for oranges and between 5.6 and 4.4 percent for grapefruit.

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's meeting was widely publicized throughout the Texas orange and grapefruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 21, 2004, 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 Texas orange and grapefruit 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/moab.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.

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 2004–05 fiscal period begins on August 1, 2004, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable oranges and grapefruit handled during such fiscal period; (2) this action decreases the assessment rate for assessable oranges and grapefruit beginning with the 2004–05 fiscal period; (3) handlers are aware of this action which was recommended by the Committee 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 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

■ 1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 906.235 is revised to read as follows:

§ 906.235 Assessment rate.

On and after August 1, 2004, an assessment rate of $0.12 per 7/10-bushel carton or equivalent is established for oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

Dated: July 23, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–17273 Filed 7–28–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 922 and 923

[Docket No. FV04–922–1 IFR]

Decreased Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rates established for the Washington Apricot Marketing Committee and the Washington Cherry Marketing Committee (Committees) for the 2004–2005 and subsequent fiscal periods. This rule decreases the assessment rates established for the Committees from $3.00 to $2.50 per ton for Washington apricots and from $1.00 to $0.75 per ton for Washington sweet cherries. The Committees are responsible for local administration of the marketing orders that regulate the handling of apricots and cherries grown in designated counties in Washington. Authorization to assess apricot and cherry handlers enables the Committees to incur expenses that are reasonable

and necessary to administer the programs. The fiscal period for both marketing orders began April 1 and ends March 31. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 30, 2004. Comments received by September 27, 2004, 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 Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*; 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.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 922 (7 CFR part 922) regulating the handling of apricots grown in designated counties in Washington, and Marketing Agreement and Order No. 923 (7 CFR part 923) regulating the handling of sweet cherries grown in designated counties in Washington, hereinafter referred to as the ''orders.'' The orders 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 (USDA) 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 orders now in effect, handlers in designated counties in Washington are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable Washington apricots and Washington sweet cherries beginning April 1, 2004, 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 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 rates established for the Committees for the 2004–2005 and subsequent fiscal periods from $3.00 to $2.50 per ton for Washington apricots and from $1.00 to $0.75 per ton for Washington sweet cherries.

The orders provide authority for the Committees, with the approval of USDA, to formulate annual budgets of expenses and collect assessments from handlers to administer the program. The members of the Committees are producers and handlers of apricots and sweet cherries in designated counties in Washington. They are familiar with the Committees' needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2003–2004 and subsequent fiscal periods, the Washington Apricot Marketing Committee (Apricot Committee) recommended, and USDA approved, an assessment rate of $3.00 per ton of apricots handled. This assessment rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Apricot Committee or other information available to USDA.

The Apricot Committee met on May 17, 2004, and unanimously recommended 2004–2005 expenditures of $10,594 and a decreased assessment rate of $2.50 per ton of assessable apricots handled. In comparison, last year's budgeted expenditures were $10,559. The assessment rate of $2.50 is $0.50 lower than the rate currently in effect. Due to an anticipated increase in apricot production this season, the Apricot Committee recommended the assessment rate decrease to maintain the level of income at or near the level of expenses.

The assessment rate recommended by the Apricot Committee was derived by dividing anticipated expenses by expected shipments of Washington apricots. Applying the $2.50 per ton rate of assessment to the Apricot Committee's 4,350-ton crop estimate should provide $10,875 in assessment income. Thus, income derived from handler assessments will be adequate to cover the recommended 2004–2005 budget of $10,594. Funds in the reserve ($11,418 as of March 31, 2004) will be maintained at a level equal to approximately one fiscal period's operational expenses as authorized by the order (§ 922.42).

For the 2003–2004 and subsequent fiscal periods, the Washington Cherry Marketing Committee (Cherry Committee) recommended, and the USDA approved, an assessment rate of $1.00 per ton of sweet cherries handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Cherry Committee or other information available to USDA.

The Cherry Committee met on May 18, 2004, and unanimously recommended 2004–2005 expenditures of $72,297 and a decreased assessment rate of $0.75 per ton of assessable cherries handled. In comparison, last year's budgeted expenditures were $71,865. The assessment rate of $0.75 is $0.25 lower than the rate previously in effect. Due to an anticipated increase in

cherry production this season, the Cherry Committee recommended the assessment rate decrease in order to maintain the level of income near the level of expenses.

The assessment rate recommended by the Cherry Committee was derived by dividing anticipated expenses by expected shipments of Washington sweet cherries. Applying the $0.75 per ton rate of assessment to the Cherry Committee's 112,600-ton crop estimate should provide $84,450 in assessment income. Thus, income derived from handler assessments will be adequate to cover the recommended 2004–2005 budget of $72,297. Funds in the reserve ($58,970 as of March 31, 2004), will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 923.42).

Both Committees are managed from the same office, thus combined major expenses recommended by the Committees for the 2004–2005 year include staff salaries ($50,572), rent and maintenance ($6,624), compliance ($4,740), and Committee travel and compensation ($3,200). These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

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

Although these assessment rates are effective for an indefinite period, the Committees will continue to meet prior to or during each fiscal period to recommend budgets of expenses and consider recommendations for modification of the assessment rates. The dates and times of the Committees' meetings are available from the Committees or USDA. The Committees' meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committees' recommendations and other available information to determine whether modification of the assessment rates is needed. Further rulemaking will be undertaken as necessary. The Committees' 2004–2005 budgets and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 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 272 apricot producers and 1,800 sweet cherry producers in designated counties in Washington. In addition, there are approximately 28 Washington apricot handlers and 69 Washington sweet cherry handlers subject to regulation under the respective marketing orders. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the total number of apricot producers (272), the most recent three-year average fresh apricot production of 3,975 tons (Apricot Committee records), and the most recent three-year average producer price of $355 per ton as reported by National Agricultural Statistics Service (NASS), average annual revenue per producer from the sale of apricots is approximately $5,188. In addition, based on Apricot Committee records and 2003 f.o.b. prices ranging from $10.50 to $12.50 per 24-pound container as reported by USDA's Market News Service (MNS), the entire Washington apricot industry handles less than $5,000,000 worth of apricots.

Based on the total number of sweet cherry producers (1,800), the most recent three-year average fresh cherry production of 79,763 tons (Cherry Committee records), and the most recent three-year average producer price of $1,390 per ton as reported by NASS, the average annual revenue per producer from the sale of cherries is approximately $61,595. In addition, based on Cherry Committee records and an average 2003 f.o.b. price of $28.00 per 20-pound container as reported by the MNS, 75 percent of the Washington cherry handlers ship under $5,000,000 worth of cherries. In view of the forgoing, the majority of Washington cherry producers and handlers may be classified as small entities.

This rule decreases the assessment rates established for the Committees and collected from handlers for the 2004–2005 and subsequent fiscal periods from $3.00 to $2.50 per ton for apricots and from $1.00 to $0.75 per ton for sweet cherries. The Apricot Committee and the Cherry Committee unanimously recommended 2004–2005 expenditures of $10,594 and $72,297, respectively. With the 2004–2005 crop estimates of 4,350 tons for apricots and 112,600 tons for sweet cherries, the Committees anticipate assessment income of $10,875 and $84,450, respectively, which will be adequate to cover budgeted expenses for both programs. These assessment incomes will maintain the Committees' reserve funds at or near the levels authorized by the orders of approximately one fiscal period's operational expenses (§§ 922.42 and 923.42).

Both Committees are managed from the same office, thus combined major expenses recommended by the Committees for the 2004–2005 year include staff salaries ($50,572), rent and maintenance ($6,624), compliance ($4,740), and Committee travel and compensation ($3,200). These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

The Committees discussed alternatives to this rule, including alternative expenditure levels, but determined that the recommended expenses were reasonable and necessary to adequately cover program operations. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the programs.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2004–2005 season could range between $353 and $357 per ton for Washington apricots and between $1,230 and $1,550 per ton for Washington sweet cherries. Therefore, the estimated assessment revenue for the 2004–2005 fiscal period as a percentage of total producer revenue could range between 0.70 and 0.71 percent for Washington apricots and between 0.05 and 0.06 percent for Washington sweet cherries.

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 rates reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committees' meetings were widely publicized throughout the Washington apricot and Washington sweet cherry industries and all interested persons

were invited to attend and participate in the Committees' deliberations on all issues. Like all Committee meetings, the May 17 and May 18, 2004, meetings were public meetings and all entities, both large and small, were able to express views on the issues. 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 Washington apricot or Washington sweet 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.ama.usda.gov/fv/moab.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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committees 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 2004–2005 fiscal period for both orders began on April 1, 2004, and both orders require that the rate of assessment apply to all assessable Washington apricots and Washington sweet cherries handled during such fiscal period; (2) the Committees need to have sufficient funds to pay for expenses which are incurred on a continuous basis; (3) handlers are aware of this action which was unanimously recommended by both Committees at public meetings and are 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

7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 922 and 923 are amended as follows:

■ 1. The authority citation for 7 CFR parts 922 and 923 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On or after April 1, 2004, an assessment rate of $2.50 per ton is established for the Washington Apricot Marketing Committee.

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 3. Section 923.236 is revised to read as follows:

§ 923.236 Assessment rate.

On or after April 1, 2004, an assessment rate of $0.75 per ton is established for the Washington Cherry Marketing Committee.

Dated: July 23, 2004.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 04–17272 Filed 7–28–04; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 705

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its regulation pertaining to the Community Development Revolving Loan Program For Credit Unions (CDRLP) to permit student credit unions to participate in the program.

DATES: This final rule is effective August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Part 705 of NCUA's regulations implements the CDRLP. 12 CFR part 705. The purpose of the CDRLP is to support the community development activities of participating credit unions. 12 CFR § 705.2. Participating credit unions are defined as those that are specifically involved in the stimulation of economic development and community revitalization activities in the communities they serve, whose membership consists of predominantly low-income members as reflected by a current low-income designation pursuant to § 701.34, § 741.204, or other applicable standards, and have submitted an application for participation and have been selected. 12 CFR § 705.3(b); 12 CFR § 701.34; 12 CFR § 741.204. The CDRLP achieves its purpose by making low interest loans and providing technical assistance to those credit unions. A credit union that participates in the CDRLP increases economic and employment opportunities for its low-income members.

Previously, NCUA took the position that although student credit unions are designated as low-income credit unions for purposes of receiving nonmember deposits, they did not qualify to participate in the CDRLP because they were not specifically involved in the stimulation of economic development activities and community revitalization. 61 FR 50694 (September 27, 1996); 58 FR 21642 (April 23, 1993). The NCUA believes this historical perspective underestimates the importance of student credit unions and the impact they have on the economic development and revitalization of the communities they serve. Student credit unions not only provide their members with valuable financial services generally not available but also a unique opportunity for financial education. NCUA believes that well run student credit unions would benefit greatly from participation in the CDRLP and, as a result, would be better able to serve their communities. Accordingly, in April 2004, NCUA issued a proposed rule to amend the CDRLP regulation to allow student credit unions to participate in the program. 69 FR 21443 (April 21, 2004).