

§ 930.141

7 CFR Ch. IX (1-1-01 Edition)

§ 930.141 Delinquent assessments.

(a) Pursuant to § 930.41, the Board shall impose an interest charge on any handler whose assessment payment has not been received by October 1 of each crop year. The interest rate shall be a rate of one percent per month and shall be applied to the unpaid assessment balance not paid by the October 1 due date. In addition to the interest charge, the Board shall impose a late payment charge on any handler whose assessment payment has not been received within 90 days from the due date of October 1. The late payment charge shall be 10 percent of the unpaid balance.

(b) [Reserved]

[62 FR 55150, Oct. 23, 1997, as amended at 63 FR 14024, Mar. 24, 1998]

§ 930.158 Grower diversion and grower diversion certificates.

(a) *Grower diversion certificates.* The Board may issue diversion certificates to growers in districts subject to volume regulation who have voluntarily elected to divert in the orchard all or a portion of their tart cherry production which otherwise, upon delivery to handlers, would become restricted percentage cherries. Growers may offer the diversion certificate to handlers in lieu of delivering cherries. Handlers may redeem diversion certificates with the Board through November 1 of each crop year. After November 1 of the crop year that crop year's grower diversion certificates are no longer valid. Cherries that have reached a harvestable, marketable condition will be eligible for diversion. Diversion will not be granted to growers whose fruit was destroyed before it set and/or matured on the tree, or whose fruit is unmarketable. If marketable fruit were to be damaged or destroyed by acts of nature such as storms or hail diversion credit could be granted.

(b) *Application and mapping for diversion.* Any grower desiring to divert cherries using methods other than random row or in-orchard tank shall submit a map of the orchard or orchards to be diverted, along with a completed Grower Diversion Application, to the Board by June 24, 1998, for the 1998-99 crop year (July 1, 1998 through June 30,

1999) and April 15 for subsequent crop years. The application includes a statement which must be signed by the grower which states that the grower agrees to comply with the regulations established for a tart cherry diversion program. Each map shall contain the grower's name and number assigned by the Board, the grower's address, block name or number when appropriate, location of orchard or orchards and other information which may be necessary to accomplish the desired diversion. On or before July 1, the grower should inform the Board of such grower's intention to divert in-orchard and what type of diversion will be used. The four types of diversion are random row diversion, whole block diversion, partial block diversion and in-orchard tank diversion. A grower who informs the Board about the type of diversion he or she wishes to use by July 1 can elect to use any diversion method or a combination of diversion methods. Only random row or in-orchard tank diversion methods may be used if the Board is not so informed by July 1. Trees that are four years or younger do not qualify for diversion.

(1) *Random row diversion.* Using the orchard map furnished by the grower, the Board will randomly select rows of trees within the orchard to be diverted. The amount of cherries to be diverted will be based on the preliminary restricted percentage amount established pursuant to § 930.50. A grower may elect a different percentage amount; however, the grower needs to inform the Board as soon as possible after the preliminary percentages are announced of this other amount, but in no event shall this be less than seven days in advance of harvest. The designated rows indicated by the map must not be harvested. After completing harvest of the remaining rows in the orchard, the grower must notify the Board and/or the Board's compliance officer. A compliance officer will then be allowed to observe the grower's orchard to assure that the selected rows have not been harvested. The grower must inform the Board of the total production of the orchard to calculate the tonnage that was diverted.