

interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing. Many of these entities also handle other items in addition to the previously regulated articles. The effect on those few entities that move regulated articles interstate was minimized by the availability of various treatments that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost. Therefore, the effect, if any, of this rule on these entities appears to be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

#### § 301.64 [Amended]

2. In § 301.64, paragraph (a) is amended by removing the phrase “the

States of California and Texas” and by adding the phrase “the State of Texas” in its place.

#### § 301.64–3 [Amended]

3. In § 301.64–3, paragraph (c) is amended by removing the entry for “California” and the description of the regulated area for Los Angeles County, CA.

Done in Washington, DC, this 15th day of August 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97–22014 Filed 8–19–97; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 927

[Docket No. FV97–927–1 IFR]

#### Winter Pears Grown in Oregon, Washington, and California; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule increases the assessment rate established for the Winter Pear Control Committee (Committee) under Marketing Order No. 927 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of winter pears grown in Oregon, Washington, and California. Authorization to assess winter pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal period for this marketing order covers the period July 1 through May 31. The assessment rate will continue until amended, suspended, or terminated. **DATES:** Effective on August 21, 1997. Comments received by September 19, 1997, 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 in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax (202) 720–5698. 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.

#### FOR FURTHER INFORMATION CONTACT:

*Teresa L. Hutchinson*, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; *Telephone:* (503) 326–2724, *Fax:* (503) 326–7440 or *George J. Kelhart*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; *Telephone:* (202) 690–3919, *Fax:* (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting *Jay Guerber*, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; *Telephone:* (202) 720–2491, *Fax:* (202) 720–5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 927, both as amended (7 CFR part 927), regulating the handling of winter pears grown in Oregon, Washington, and California hereinafter referred to as the “order.” The marketing agreement and order 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 (Department) 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 order now in effect, winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable winter pears beginning July 1, 1997, and continuing 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 the Secretary 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 the Secretary 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 the Secretary'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 increases the assessment rate established for the Committee for the 1997-98 and subsequent fiscal periods from \$0.405 to \$0.44 per standard box.

The winter pear marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of winter pears. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 30, 1997, and unanimously recommended 1997-98 expenditures of \$8,066,790 and an assessment rate of \$0.44 per standard box of winter pears. In comparison, last year's budgeted expenditures were \$5,502,979. The assessment rate of \$0.44 is \$0.035 more than the rate currently in effect. The Committee recommended an increased assessment rate, because the current rate would not generate enough income to adequately administer the program.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Major expenses recommended by the Committee for the 1997-98 fiscal period include \$7,010,550 for paid advertising, \$346,200 for improvement of winter pears (production research), \$161,549 for salaries, and \$75,000 for industry development. Budgeted expenses for these items in 1996-97 were \$4,674,675, \$249,316, \$154,387, and \$75,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears. Winter pear shipments for the year are estimated at 17,310,000 standard boxes, and the \$0.44 per standard box assessment rate should provide \$7,616,400 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

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

Although this assessment rate is effective for an indefinite period, the Committee 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 Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997-98 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 1,800 producers of winter pears in the production area and approximately 90 handlers subject to regulation under the marketing order. Small agricultural

producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of winter pear producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1997-98 and subsequent fiscal periods. The Committee unanimously recommended 1997-98 expenditures of \$8,066,790 and an assessment rate of \$0.44 per standard box of winter pears. The assessment rate of \$0.44 is \$0.035 more than the rate currently in effect. The Committee recommended an increased assessment rate, because the current rate would not generate enough income to adequately administer the program. That is, enough income would not be generated to cover its increased expenses, and maintain an adequate operating reserve.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Major expenses recommended by the Committee for the 1997-98 fiscal period include \$7,010,550 for paid advertising, \$346,200 for improvement of winter pears (production research), \$161,549 for salaries, and \$75,000 for industry development. Budgeted expenses for these items in 1996-97 were \$4,674,675, \$249,316, \$154,387, and \$75,000, respectively. The increase in paid advertising is needed to help the industry market this season's crop, which is significantly larger than last year's crop. A lower level of funding for paid advertising was ruled out by the Committee because it felt that a more aggressive advertising program was needed this season to market the large crop. The increased level for production research provides funds for current and anticipated research in 1997-98.

The Committee discussed the alternative of not increasing the assessment rate. However, it decided against this course of action because continuation of the current rate would not provide enough income to meet its 1997-98 budgeted expenses, and maintain an adequate operating reserve.

Winter pear shipments for the year are estimated at 17,310,000 standard boxes, which should provide \$7,616,400 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Recent price information indicates that the grower price for the 1997-98 marketing season will range between \$4.82 and \$11.81 per standard box of winter pears. Therefore, the estimated assessment revenue for the 1997-98 fiscal period as a percentage of total grower revenue will range between 0.04 and 0.09 percent.

This action will increase the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear 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 30, 1997, 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 not impose any additional reporting or recordkeeping requirements on either small or large winter pear 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.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. After consideration of all relevant matter 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 1997-98 fiscal period began on July 1, 1997, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable winter pears handled during such fiscal period; (2) handlers

are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (3) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

#### PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

#### § 927.236 [Amended]

2. Section 927.236 is amended by removing the words "July 1, 1996," and adding in their place the words "July 1, 1997," and by removing "\$0.405" and adding in its place "\$0.44."

Dated: August 14, 1997.

**Robert C. Keeney,**

*Director, Fruit and Vegetable Division.*

[FR Doc. 97-22013 Filed 8-19-97; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 97-NM-124-AD; Amendment 39-10104; AD 97-17-02]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 777-200 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 777-200 series airplanes. This action requires repetitive torquing of the bushing retainer nuts of the pivot pins in the horizontal stabilizer hinge assembly to tighten loose nuts to the new torque value; and repetitive visual inspections, if necessary, to detect bushing migration or damage to adjacent structures, and repair of any damage.

This proposal also provides for an optional terminating action for the repetitive inspections. This amendment is prompted by a report of a loose bushing retainer nut, which may be attributed to low nut torque. The actions specified in this AD are intended to detect and correct loose bushing retainer nuts of the pivot pins in the horizontal stabilizer hinge assembly, which could result in bushing migration and consequent damage to the adjacent structure, and reduced controllability of the airplane.

**DATES:** Effective September 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 4, 1997.

Comments for inclusion in the Rules Docket must be received on or before October 20, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-124-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Stan Wood, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227-2772; fax (425) 227-1181.

**SUPPLEMENTARY INFORMATION:** Boeing recently notified the FAA that an unsafe condition may exist on certain Boeing Model 777-200 series airplanes. Investigation revealed that a loose bushing retainer nut of the pivot pin in the horizontal stabilizer hinge assembly was found on a Boeing Model 777-200 flight test airplane that had accumulated approximately 2,000 total flight cycles. The cause of the loose bushing retainer nut may be attributed to low nut torque. A loose bushing retainer nut of the pivot pin in the horizontal stabilizer hinge assembly, if not corrected, could result in bushing migration and consequent damage to the adjacent structure, and reduced controllability of the airplane.