

be placed on the diversion certificate. The Board will confirm the grower's production amount with information provided by handlers (to which the grower delivers cherries) on Board Form Number Two.

(3) The grower must agree to allow a Board compliance officer to visit the grower's orchard to confirm that diversion has actually taken place.

(c) *Calculation of diversion amounts.* The weight of cherries diverted and left unharvested shall be calculated by the Board after growers furnish the Board with the necessary information concerning their production. After verification of the volume of cherries diverted, the Board shall calculate the amounts of grower diversion tonnage to be placed on the diversion certificates and issue such certificates to growers. Such amounts shall be determined as follows:

(1) For whole block diversion, the weight of a harvested sample of 5 percent of each diverted block, provided by the grower, will be used to calculate the total volume of diverted cherries to be credited on the diversion certificate. For example, a grower farms 1,000 acres and elects to whole block divert a 200 acre block. If 5 percent of the harvested trees in the block diverted yield 80,000 pounds of cherries, the grower would receive a diversion certificate for 1,600,000 pounds (80,000 pounds divided by 5 percent (.05) yields 1,600,000 pounds). The rest of the block would remain unharvested.

(2) For random row diversion, such estimated volume would be calculated by applying the percentage of the grower's production diverted to the actual average volume per acre of cherries produced and harvested. For example, a grower farms 1,000 acres and elects to divert 20 percent of the harvestable acreage (200 acres). The grower harvests the remaining 800 acres and obtains 6,400,000 pounds of cherries, which represents a yield per acre of 8,000 pounds. Such grower would receive a diversion certificate for 1,600,000 pounds of cherries (8,000 lbs multiplied by the 20 percent of the total acreage diverted; in this instance, 200 acres).

Dated: August 18, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-22578 Filed 8-20-97; 4:06 pm]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV97-931-2 IFR]

Fresh Bartlett Pears Grown in Oregon and Washington; Reduced Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) under Marketing Order No. 931 for the 1997-98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett 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 26, 1997. Comments received by September 24, 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 No. 141 and Order No. 931, both as amended (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington 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, fresh Bartlett 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 fresh Bartlett 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 decreases the assessment rate established for the Committee for the 1997-98 and subsequent fiscal periods from \$0.0375 to \$0.03 per standard box.

The fresh Bartlett 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 fresh Bartlett 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 29, 1997, and unanimously recommended 1997-98 expenditures of \$111,441 and an assessment rate of \$0.03 per standard box of fresh Bartlett pears. In comparison, last year's budgeted expenditures were \$89,774. The assessment rate of \$0.03 is \$0.0075 less than the rate currently in effect. At the current rate of \$0.0375 per standard box and an estimated 1997 fresh Bartlett pear production of 3,150,000 standard boxes, the projected reserve on May 31, 1998, would exceed the level the Committee believed to be adequate to administer the program. The Committee discussed lower assessment rates, but decided that an assessment rate of less than \$0.03 would not generate the income necessary to administer the program with an adequate reserve. Major expenses recommended by the Committee for the 1997-98 fiscal period include \$48,454 for salaries, \$8,187 for office rent, and \$4,956 for health insurance. Budgeted expenses for these items in 1996-97 were \$46,306, \$7,016, and \$4,991, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of fresh Bartlett pears. With fresh Bartlett pear shipments for the year estimated at 3,150,000 standard boxes, the \$0.03 per standard box assessment rate should provide \$94,500 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 fresh Bartlett pears in the production area and approximately 65 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 fresh Bartlett pear producers and handlers may be classified as small entities.

This rule decreases 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 \$111,441 and an assessment rate of \$0.03 per standard box of fresh Bartlett pears. The assessment rate of \$0.03 is \$0.0075 less than the rate currently in effect. At the current assessment rate of \$0.0375 per standard box, the Committee's reserve was projected to exceed the level the Committee believed to be adequate to administer the program. Therefore, the Committee voted to lower its assessment rate and use more of the reserve to cover its expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate reserve. Major expenses recommended by the Committee for the 1997-98 fiscal period include \$48,454 for salaries, \$8,187 for office rent, and \$4,956 for health insurance. Budgeted expenses for these items in 1996-97 were \$46,306, \$7,016, and \$4,991, respectively.

Fresh Bartlett pear shipments for the year are estimated at 3,150,000 standard boxes, which should provide \$94,500 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 \$5.79 and \$12.72 per standard box of fresh Bartlett pears. Therefore, the estimated assessment revenue for the 1997-98 fiscal period as a percentage of total grower revenue will range between 0.24 and 0.52 percent.

This action will reduce 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 fresh Bartlett 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 29, 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 fresh Bartlett 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) This action reduces the current assessment rate for fresh Bartlett pears; (2) 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 fresh Bartlett pears handled during such fiscal period; (3) 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 (4) 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 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

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

§931.231 [Amended]

2. Section 931.231 is amended by removing the words "July 1, 1996," and adding in their place the words "July 1, 1997," and by removing "\$0.0375" and adding in its place "\$0.03."

Dated: August 19, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-22522 Filed 8-22-97; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-ANE-32-AD; Amendment 39-10107; AD 97-17-05]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney Canada PW100 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Pratt & Whitney Canada PW100 series turboprop engines. This action requires a visual inspection of the two gas generator case drain ports to ensure that they are connected to drain lines or capped in accordance with the applicable aircraft installation configuration. This amendment is prompted by a report of a nacelle fire. The actions specified in this AD are intended to prevent a nacelle fire caused by fluid leaking from the gas generator case drain ports.

DATES: Effective September 9, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 1997.

Comments for inclusion in the Rules Docket must be received on or before October 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97-ANE-32-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1; telephone (514) 647-2866, fax (514) 647-2888. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7134, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, recently notified the Federal Aviation Administration (FAA) that an unsafe condition may exist on Pratt & Whitney Canada (PWC) PW118, PW118A, PW118B, PW119B, PW119C, PW120, PW120A, PW121, PW121A, PW123, PW123B, PW123C, PW123D, PW123E, PW124B, PW125B, PW126A, PW127, PW127E, and PW127F series turboprop engines. The FAA and Transport Canada received a report of an Embraer EMB-120 aircraft powered by PWC PW118B turboprop engines that recently experienced a fire shortly after take off. The aircraft landed safely with the loss of both hydraulic systems and with extensive heat and fire damage to the right engine nacelle, wing, and landing gear bay. A portion of the aircraft exhaust duct was also missing. The fuel and ignition sources have not been determined and the investigation of the accident by the National Transportation Safety Board (NTSB) is continuing. As part of the investigation, the right engine was disassembled and the investigators found the gas generator case rear drain port was not capped as required by the aircraft manufacturer's installation instructions. A subsequent inspection of the operator's EMB 120 fleet found two more aircraft with the cap missing from the gas generator case rear drain port. Under certain conditions, the opened rear drain port may permit fluid to exit through the port and accumulate in the nacelle resulting in a possible hazardous situation. All PW100 model engines are equipped with two gas generator case drain ports. This condition, if not corrected, can result in a nacelle fire caused by fluid leaking from the gas generator case drain ports.

PWC has issued Service Information Letter SIL No. PW100-003, issued June 18, 1997, that describes procedures for