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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV05–931–1 FR]

Fresh Bartlett Pears Grown in Oregon and Washington; Termination of Marketing Order No. 931

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; termination order.

SUMMARY: This rule terminates the marketing order for fresh Bartlett pears grown in Oregon and Washington, Marketing Order No. 931 (order), and the rules and regulations issued thereunder. On May 21, 2005, Marketing Order No. 927 was amended to include regulatory authority over Bartlett pears grown in Oregon and Washington, historically regulated by the order. That action anticipated the termination of Order No. 931. Thus, there is no need to continue the operation of the order.

DATES: *Effective Date:* January 26, 2006.

ADDRESSES: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, telephone (435) 259–7988, or Fax (435) 259–4945; or Susan M. Hiller, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, telephone (503) 326–2724, or Fax (503) 326–7440.

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 Avenue, 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 action is governed by the provisions of section 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act'' and Sec. 931.64 of the order.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The termination of the order has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This action 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. A 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 a 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 terminates the order covering fresh Bartlett pears and the rules and regulations established thereunder. The order has been in effect since 1966. It authorizes the establishment of grade, size, quality, container and pack regulations for fresh Bartlett pears grown in Oregon and Washington, as well as marketing research and development projects. The program has been funded by assessments imposed on handlers of fresh Bartlett pears grown in Oregon and Washington.

Section 931.64 of the order specifies that the Secretary may at any time terminate or suspend the operation of the order whenever he finds that such provisions do not tend to effectuate the declared policy of the Act. On May 21, 2005, Marketing Order No. 927 was amended to include regulatory authority over Bartlett pears grown in Oregon and Washington. That action anticipated the termination of Order No. 931. Bartlett pears have historically been regulated by the order.

On September 8, 2005, the Northwest Fresh Bartlett Pear Marketing Committee (NWFBPMC), the administrative Committee for the order, voted unanimously in favor of terminating the program and transferring its assets to the committee administering the newly amended Marketing Order No. 927.

Pursuant to section 8c(16)(A) of the Act and § 931.64 of the order, USDA has determined that the order and all of its provisions should be terminated. Section 8c(16)(A) of the Act requires USDA to notify Congress at least 60 days before terminating a Federal marketing order program. Congress was so notified on October 11, 2005.

Pursuant to § 931.65 of the order, the members of the NWFBPMC shall serve as trustees to conclude and liquidate the affairs of the committee. The most recent fiscal period for the NWFBPMC began July 1, 2004, and ended June 30, 2005. An annual financial audit was conducted and accounts were determined to be in conformity with generally accepted accounting principles for that period, with an operating reserve (net assets) of $43,753. The Committee has recommended transferring all NWFBPMC assets and records to the Fresh Pear Committee, newly established under Marketing Order No. 927.

Final 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 action on small entities.

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 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.

Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $6,000,000.

Industry and USDA statistics indicate that there are approximately 1,850 pear growers in Oregon and Washington. Of that total, 1,345 growers report fresh Bartlett pear production. There are 55 handlers that handle fresh Bartlett pears produced in Oregon and Washington.

According to the *Non-citrus Fruits and Nuts 2004 Summary* issued in July 2005 by the National Agricultural Statistics Service, the total farm gate value of fresh Bartlett pears grown in Oregon and Washington for 2004 was $41,371,000. Therefore, the 2004 average gross revenue for a fresh Bartlett pear grower in Oregon and Washington was $30,759. Based on records of the Committee and recent f.o.b. prices for pears, over 76 percent of the handlers ship less than $6,000,000 worth of pears on an annual basis. Thus, it can be concluded that the majority of growers and handlers of Oregon and Washington fresh Bartlett pears may be classified as small entities.

This final rule terminates the marketing order covering fresh Bartlett pears grown in Oregon and Washington and the rules and regulations established under the order.

On May 21, 2005, Marketing Order No. 927 was amended to include regulatory authority over Bartlett pears grown in Oregon and Washington, historically regulated by the order. Washington and Oregon pear growers voting in a mail referendum held March 22 through April 8, 2005, favored the consolidation of the two marketing orders into one program.

On September 8, 2005, at a NWFBPMC telephone meeting, committee members motioned and voted to terminate the order. A record of the members voting, and confirmation in writing of the votes by each member as required by the NWFBPMC Bylaws regarding mail ballots, was submitted to USDA on September 28, 2005. The record indicates that the NWFBPMC voted unanimously in favor of terminating the order and transferring the program's assets to the Fresh Pear Committee, newly established under Marketing Order No. 927.

Given that the provisions of the order have been incorporated into Marketing Order No. 927 and that the handling of fresh Bartlett pears will continue to be regulated under Marketing Order No. 927, USDA has determined that small growers or handlers will not be unduly or disproportionately burdened by the termination of this order. The termination reflects a shift in the regulatory oversight of fresh Bartlett pears from Marketing Order No. 931 to Marketing Order No. 927.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being terminated by this rule were previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0189, ''Generic OMB Fruit Crops.'' The total annual reporting burden for Fresh Bartlett Pears Grown in Oregon and Washington is 904.62 burden hours. The information collection for fresh Bartlett pears (Marketing Order No. 931) will be incorporated with Marketing Order No. 927, Pears Grown in Oregon and Washington (formerly Winter Pears Grown in Oregon and Washington), which is also part of the Generic OMB Fruit Crops package.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final 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.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action relieves restrictions on handlers by terminating the requirements of the marketing order; (2) handlers were given notice of amendments made to Federal Marketing Order No. 927 on May 21, 2005, which now regulates all pears grown in Oregon and Washington; and (3) no useful purpose would be served by delaying the effective date.

After consideration of all relevant matter presented it is hereby found that the order, and the rules and regulations in effect under the order, no longer tend to effectuate the declared policy of the Act and, therefore, are terminated.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

PART 931—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR part 931 is removed.

Dated: December 21, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–24487 Filed 12–23–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23382; Directorate Identifier 2005–NM–221–AD; Amendment 39–14428; AD 2005–26–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318–100, A319–100, A320–200, A321–100, and A321–200 Series Airplanes; and Model A320–111 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Model A318–100, A319–100, A320–200, A321–100, and A321–200 series airplanes; and Model A320–111 airplanes. This AD requires revising the airplane flight manual by incorporating new procedures to follow in the event of a fuel leak. This AD results from a determination that, once a fuel leak is detected, fuel management procedures are a critical factor in limiting the consequences of the leak. We are issuing this AD to ensure that the flightcrew is advised of appropriate procedures to follow in the event of a fuel leak, such as isolating the fuel tanks, stopping any fuel transfers, and landing as soon as possible. Failure to follow these procedures could result in excessive fuel loss that could cause the engines to shut down during flight.

DATES: This AD becomes effective January 11, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 11, 2006.

We must receive comments on this AD by February 27, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

• *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.