Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Doc. No. AMS–SC–18–0048; SC18–927–1 PR]

Pears Grown in Oregon and Washington; Increased Assessment Rate for Fresh Pears

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Fresh Pear Committee (Committee) to increase the assessment rate established for the 2018–2019 and subsequent fiscal periods. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 27, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document 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.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927, (referred to as ''the Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of growers and handlers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, Oregon and Washington pear handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable pears for the 2018–2019 fiscal period, and continue until amended, suspended, or terminated.

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.

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

This proposed rule would increase the assessment rate from $0.449 to $0.463 per 44-pound standard box or equivalent of fresh ''summer/fall'' and ''winter'' pears handled for the 2018–2019 and subsequent fiscal periods. The proposed higher rate is necessary to fully cover the Committee's 2018–2019 fiscal period budgeted expenditures. The Committee has had to draw from its monetary reserve to partially fund program activities during the last two fiscal periods. Drawing from reserves to fund operations on an on-going basis is not a sustainable strategy. Therefore, increasing the continuing assessment rate would allow the Committee to fully fund budgeted expenses and replenish its financial reserve.

The Committee met on May 31, 2018, and unanimously recommended 2018–

2019 fiscal period expenditures of $9,213,133 and an assessment rate of $0.463 per standard box or equivalent of fresh ''summer/fall'' and ''winter'' pears handled. In comparison, last year's budgeted expenditures were $9,282,059. The proposed assessment rate of $0.463 is $0.014 higher than the $0.449 rate currently in effect. The Committee recommended the assessment rate increase because expenditures have exceeded assessment revenue in the previous two fiscal periods.

The major expenditures recommended by the Committee for the 2018–2019 fiscal period include $550,790 for contracted administration by Pear Bureau Northwest, $190,700 for administrative expenses, $771,643 for production research and market development, and $7,700,000 for promotion and paid advertising for both ''summer/fall'' and ''winter'' varieties of fresh pears. In comparison, major expenses for the 2017–2018 fiscal period included $512,928 for contracted administration, $232,200 for administrative expenses, $836,931 for production research and market development, and $7,700,000 for promotion and paid advertising.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments, and the amount of funds available in the authorized reserve. Income derived from handler assessments of $9,260,000 (20 million standard boxes or equivalent at $0.463 per box) would be adequate to cover budgeted expenses of $9,213,133, with any excess funds used to replenish the Committee's monetary reserve. Funds in the reserve (currently $1,096,332) would be kept within the maximum permitted by § 927.42(a) and would not exceed the expenses of approximately one fiscal period.

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

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

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed 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 businesses 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.

There are approximately 827 growers of fresh pears in the production area and approximately 38 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to data from USDA Market News, the industry, and the Committee, for the 2016–17 season, the weighted average f.o.b. price for Oregon-Washington fresh pears was approximately $26.99 per standard 44-pound box. Total shipments for that period were 17,878,219 standard boxes or equivalent. Using the number of handlers, and assuming a normal distribution, the majority of handlers would have average annual receipts of more than $7,500,000 ($26.99 per box times 17,878,219 equals $482,533,130 divided by 38 handlers equals $12,698,240 per handler).

In addition, based on National Agricultural Statistics Service data, the industry produced 441,950 tons of fresh pears in the production area during the 2016–2017 season, with an average grower price of $797 per ton. Based on the average grower price, production, and the total number of Oregon-Washington fresh pear growers, and assuming a normal distribution, the average annual grower revenue is below $750,000 ($797 per ton times 441,950 tons equals $352,234,150 divided by 827 growers equals $425,918 per grower). Thus, the majority of Oregon and Washington fresh pear handlers may be classified as large entities, while the majority of growers may be classified as small entities.

This proposal would increase the assessment rate collected from handlers for the 2018–2019 and subsequent fiscal periods from $0.449 to $0.463 per standard box or equivalent of Oregon and Washington fresh ''summer/fall'' and ''winter'' pears handled. The Committee unanimously recommended 2018–2019 fiscal period expenditures of $9,213,133 and the $0.463 per standard box or equivalent assessment rate. The proposed assessment rate of $0.463 is $0.014 higher than the rate for the 2017–2018 fiscal period. The quantity of assessable fresh ''summer/fall'' and ''winter'' pears for the 2018–2019 fiscal period is estimated at 20 million standard boxes or equivalent. Thus, the $0.463 rate should provide $9,260,000 in assessment income. Income derived from handler assessments would be adequate to cover budgeted expenses, with any excess funds used to replenish the Committee's monetary reserve.

The major expenditures recommended by the Committee for the 2018–2019 fiscal period include $550,790 for contracted administration by Pear Bureau Northwest, $190,700 for administrative expenses, $771,643 for production research and market development, and $7,700,000 for promotion and paid advertising for both ''summer/fall'' pears and ''winter'' pears. Budgeted expenses for these items in the 2017–2018 fiscal period were $512,928, $232,200, $836,931, and $7,700,000, respectively.

The proposed higher rate is necessary to fully cover the Committee's 2018–2019 fiscal period budgeted expenditures. The Committee has had to draw from its monetary reserve to partially fund program activities during the 2016–2017 and 2017–2018 fiscal periods. Drawing from its financial reserve to fund operations on an on-going basis is not a sustainable strategy. Increasing the continuing assessment rate would allow the Committee to fully fund budgeted expenses and replenish its financial reserve.

Prior to arriving at this budget and assessment rate, the Committee considered maintaining the current assessment rate of $0.449 per standard box or equivalent. However, leaving the assessment unchanged would not generate sufficient revenue to meet the Committee's 2018–2019 fiscal period budgeted expenses of $9,213,133, and would have required the Committee to continue to deplete its financial reserve. Based on estimated shipments, the recommended assessment rate of $0.463 per standard box or equivalent should provide $9,260,000 in assessment income. The Committee determined assessment revenue would be adequate to fully cover budgeted expenditures for the 2018–2019 fiscal period, with any excess funds used to replenish the Committee's monetary reserve. Reserve funds would be kept within the amount authorized in the Order.

A review of historical information and preliminary information pertaining to the upcoming fiscal year indicates that the average grower price for the 2018–2019 season should be approximately $800 per ton of fresh pears. Therefore, the estimated assessment revenue for the 2018–2019 fiscal period as a percentage of total grower revenue would be about 2.6 percent.

This proposed action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to growers. However, these costs would be offset by the benefits derived by the operation of the Order. In addition, the Committee's meetings were widely publicized throughout the Oregon and Washington fresh pear industry. All interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 31, 2018, 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 comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0189 Fruit Crops. No changes in those requirements would be necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Oregon and Washington fresh 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.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed 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/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed to be amended as follows:

PART 927—PEARS GROWN IN OREGON AND WASHINGTON

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

Authority: 7 U.S.C. 601–674.

■ 2. Section 927.236 paragraphs (a) and (b) are revised to read as follows:

§ 927.236 Fresh pear assessment rate.

On and after July 1, 2018, the following base rates of assessment for fresh pears are established for the Fresh Pear Committee:

(a) $0.463 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''summer/fall'';

(b) $0.463 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as ''winter''; and

* * * * *

Dated: August 22, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–18552 Filed 8–27–18; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1231

RIN 2590–AA72

Golden Parachute and Indemnification Payments

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Housing Finance Agency (FHFA) is proposing to amend its rule on golden parachute payments to better align the rule with areas of FHFA's supervisory concern and reduce administrative and compliance burdens. The current rule requires FHFA review and consent before a regulated entity or the Office of Finance (OF) enters into an agreement to make, or makes, a payment that is contingent on the termination of an affiliated party, if the regulated entity or OF is in a troubled condition, in conservatorship or receivership, or insolvent. FHFA's experience implementing the rule indicates that the rule requires review of some agreements and payments where there is little risk of excess or abuse, and thus that it is too broad.

If amended as proposed, the rule would focus on the types of agreements and payments that are of greater supervisory concern to FHFA. In general, these are payments to and agreements with executive officers, broad-based plans covering large numbers of employees (such as severance plans), and payments made to non-executive-officer employees who may have engaged in certain types of wrongdoing. The proposed amendments would also revise and clarify definitions, exemptions, and procedures to implement FHFA's supervisory approach. Where possible, FHFA would also align procedures and outcomes of review under the Golden Parachute Payment Rule with requirements of FHFA's rule on executive compensation. FHFA expects implementation of these changes would result in reduced administrative and compliance burdens.

DATES: Comments must be received by October 12, 2018.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AA72, by any one of the following methods:

- *Agency website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AA72.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/