

Proposed Rules

Federal Register

Vol. 60, No. 125

Thursday, June 29, 1995

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

[Docket No. AO-99-A-6; FV-92-065]

Winter Pears Grown in Oregon, Washington, and California; Secretary's Decision and Referendum Order on Proposed Further Amendment of Marketing Agreement and Order No. 927

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to the subject marketing agreement and order (order) and provides winter pear producers with the opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments were submitted by the Winter Pear Control Committee (WPCC), the agency responsible for local administration of the order. The proposed amendments would redefine "ship or handle" to include shipments of winter pears within the production area, update the definition of "export market" to recognize that there are now 50 states in the United States, authorize the WPCC to accept voluntary contributions and how such funds may be used, and revise the authority for exempting certain shipments from regulation. These proposed amendments are designed to improve the administration, operation and function of the winter pear marketing order program.

DATES: The referendum shall be conducted from November 1 through November 30, 1995.

FOR FURTHER INFORMATION CONTACT:

Brittany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S, Washington, DC 20250-0200; telephone: (202) 720-5127; or Teresa

Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW., Third Avenue, room 369, Portland, Oregon, 97204; telephone: (503) 326-2725.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on November 16, 1992, and published in the November 20, 1992, issue of the **Federal Register** (57 FR 54728). Recommended Decision and Opportunity To File Written Exceptions issued on March 15, 1995, and published in the **Federal Register** on March 21, 1995 (60 FR 14914).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements to Executive Order 12866.

Preliminary Statement

The proposed amendments were formulated on the record of a public hearing held in Portland, Oregon, on December 2, 1992, to consider the proposed amendment of the Marketing Agreement and Order No. 927, regulating the handling of winter pears grown in Oregon, Washington, and California hereinafter referred to collectively as the "order." The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained several amendment proposals submitted by the WPCC established under the order to assist in local administration of the program.

The proposals would: (1) Redefine "ship or handle" to include shipments of winter pears within the production area; (2) update the definition of "export market" to recognize that there are now 50 states in the United States; (3) authorize the WPCC to accept voluntary contributions and how such funds may be used; and (4) revise the authority for exempting certain shipments from regulation.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on March 21, 1995, filed with the

Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by April 20, 1995. None were filed.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural service firms, which include handlers regulated under this order, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than \$5,000,000. Small agricultural producers are defined as those having annual receipts of less than \$500,000.

The purpose of the RFA is to fit regulatory actions to the scales of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders 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 the RFA and the Act have small entity orientation and compatibility. Interested persons were invited to present evidence at the hearing on the probable impact that the proposed amendments to the order would have on small businesses.

During the 1991-92 crop year, 90 handlers were regulated under Marketing Order No. 927. In addition, there were about 1,650 producers of winter pears in the production area. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

All of the amendments are designed to enhance the administration and functioning of the marketing agreement and order which would benefit the industry. If implemented, these amendments might impose some costs on affected handlers and producers. However, the added burden on small entities, if present at all, would not be significant because the benefits of the proposed amendments are expected to outweigh the costs.

The amendments proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

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 requesting 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 his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), any change in the reporting and recordkeeping provisions that may result from the proposed amendments would be submitted to the Office of Management and Budget (OMB). The provisions would not be effective until receiving OMB approval.

Findings and Conclusions and Rulings on Exceptions

The material issues, findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the March 21, 1995, issue of the **Federal Register** (60 FR 14914) are hereby approved and adopted without change.

Marketing Agreement and Order

Annexed hereto and made a part hereof is the document entitled "Order Amending the Order Regulating the Handling of Winter Pears Grown in Oregon, Washington, and California." This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400 *et seq.*) to determine whether the issuance of the annexed order amending the order regulating the handling of winter pears grown in Oregon, Washington, and California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of winter pears grown in Oregon, Washington, and California.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1994, through June 30, 1995.

The agents of the Secretary to conduct such referendum are hereby designated to be Teresa L. Hutchinson, Marketing Specialist, and Gary D. Olson, Officer-in-Charge, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204, telephone: 503-326-2725.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

Dated: June 22, 1995.

David R. Shipman,
Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.

Order amending the Order Regulating the Handling of Winter Pears Grown in Oregon, Washington, and California¹

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

amendments to the Marketing Agreement and Order No. 927 (7 CFR part 927), regulating the handling of winter pears grown in Oregon, Washington, and California.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as amended, as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, as hereby proposed to be further amended, regulates the handling of winter pears grown in the production area in the same manner as, and is applicable only to persons in the respective classes or commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of winter pears grown in production area; and

(5) All handling of winter pears grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of winter pears grown in Oregon, Washington, and California, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and the order amending the order contained in the Recommended Decision issued by the Administrator on March 15, 1995, and published in the **Federal Register** on March 21, 1995, shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

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.

2. Section 927.8 is revised to read as follows:

§ 927.8 Ship or handle.

Ship or handle means to sell, deliver, consign or transport pears, within the production area or between the production area and any point outside thereof. Provided, That the term "handle" shall not include the transportation of winter pear shipments within the production area from the orchard where grown to a packing facility located within the production area for preparation for market.

3. Section 927.10 is revised to read as follows:

§ 927.10 Production area.

Production area means and includes the States of Oregon, Washington, and California.

4. Section 927.12 is revised to read as follows:

§ 927.12 Export market.

Export market means any destination which is not within the 50 states, or the District of Columbia, of the United States.

5. In § 927.41, paragraph (a) is revised to read as follows:

§ 927.41 Assessments.

(a) Assessments will be levied only upon handlers who first handle pears. Each handler shall pay assessments on all pears handled by such handler as the pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the Control Committee during a fiscal period. The payment of assessments for the maintenance and functioning of the Control Committee may be required under this part throughout the period such assessments are payable irrespective of whether particular provisions thereof are suspended or become inoperative.

* * * * *

6. Section 927.45 is added to read as follows:

§ 927.45 Contributions.

The Control Committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 927.47. Furthermore, such contributions shall be free from any encumbrances by the donor and the Control Committee shall retain complete control of their use.

7. Section 927.47 is revised to read as follows:

§ 927.47 Research and development.

The Control Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, or marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of pears. Such projects may provide for any form of marketing promotion, including paid advertising. The expense of such projects shall be paid from funds collected pursuant to §§ 927.41 and 927.45. Expenditures for a particular variety of pears shall approximate the amount of assessments and voluntary contributions collected for that variety of pears.

8. In § 927.52, paragraph (b)(1) is revised to read as follows:

§ 927.52 Prerequisites to Control Committee recommendations.

* * * * *

(b) * * *

(1) The basis of one vote for each 25,000 boxes (except 2,500 boxes for Forelle and Seckel varieties) of the average quantity of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods; or

* * * * *

9. In § 927.65, paragraph (b) is revised to read as follows:

§ 927.65 Exemption from regulation.

* * * * *

(b) The Control Committee may prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby quantities of pears or types of pear shipments may be exempted from any or all provisions of this subpart.

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[FR Doc. 95-15947 Filed 6-28-95; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL RESERVE SYSTEM**12 CFR Part 220**

[Regulation T; Docket No. R-0772]

RIN 7100-AB28

Securities Credit Transactions; Review of Regulation T, "Credit by Brokers and Dealers"

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: As part of a program to periodically review its regulations, the Board is proposing amendments to Regulation T, the regulation that covers extensions of credit by and to broker and dealers (also known as creditors). These amendments reflect consideration of the comments submitted in response to the Board's Advance Notice of Proposed Rulemaking. Many of the proposed amendments feature increased reliance on rules of the Securities and Exchange Commission (SEC) and self-regulatory organizations (SROs) and others would make Regulation T consistent with Regulation G and Regulation U, the regulations covering securities credit by lenders other than broker-dealers. Proposed changes in the options area include permitting loan value for long positions in exchange-traded options and increasing reliance on the margin rules of the exchange that trades the option for customer and specialist transactions. These changes would also allow creditors to recognize the offsetting nature of financial futures in calculating margin for securities options. Proposed amendments in the international area will reduce restrictions on transactions involving foreign securities that are not publicly traded in the United States and foreign securities being sold on an installment basis if the U.S. component is a relatively small percentage of the offering. Broker-dealers would also be given more flexibility in computing overall margin requirements for customer accounts with securities denominated in one or more foreign currencies. In addition to these and other amendments, technical changes are being proposed to clarify areas that have raised questions, update references, or restore language inadvertently deleted. The Board is also soliciting comments on a number of specific proposals. Finally, a number of questions regarding the existing regulation raised by commenters are being answered.

DATES: Comments should be received on or before August 28, 1995.

ADDRESSES: Comments should refer to Docket No. R-0772, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to Room B-222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street, N.W.) at any time. Comments received will be available for