

was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended August 23, 2005. One response was received. However, it was not relevant to this rulemaking action. Therefore, no changes will be made as a result of this response.

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.

After consideration of all relevant material presented, including the Committee's recommendations, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (70 FR 36467, June 24, 2005) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ Accordingly, the interim final rule amending 7 CFR part 915 which was published at 70 FR 36467 on June 24, 2005, is adopted as a final rule without change.

Dated: October 6, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05-20472 Filed 10-12-05; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 927

[Docket No. FV05-927-2]

#### Marketing Order Regulating the Handling of Pears Grown in Oregon and Washington; Control Committee Rules and Regulation

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

**ACTION:** Correcting amendment.

**SUMMARY:** The Agricultural Marketing Service (AMS) is adding provisions to the Code of Federal Regulations that include rules and regulations used in

administering the marketing order regulating the handling of pears grown in Oregon and Washington. Inadvertently, Subpart—Control Committee Rules and Regulations was removed in May 2005 when the marketing order was amended.

**EFFECTIVE DATE:** May 21, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, D.C. 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938.

**SUPPLEMENTARY INFORMATION:** A final rule published in the **Federal Register** on Friday, May 20, 2005 (70 FR 29388), was intended to only amend Subpart—Order Regulating Handling of Part 927 and to leave Subpart—Control Committee Rules and Regulations unchanged. However, amendatory language in the final rule resulted in Subpart—Control Committee Rules and Regulations being removed from 7 CFR part 927.

The codified provisions of 7 CFR part 927 do not include the Control Committee Rules and Regulations. This correction document adds Subpart—Control Committee Rules and Regulations back into 7 CFR part 927.

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

Marketing agreements, Winter pears, Reporting and recording keeping requirements.

■ Accordingly, 7 CFR Part 927 is corrected by adding the following provisions:

#### 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. Part 927 is corrected by adding Subpart—Control Committee Rules and Regulations consisting of §§ 927.100 through 927.316 to read as follows:

#### Subpart—Control Committee Rules and Regulations

##### Definitions

Sec.

- 927.100 Terms.
- 927.101 Marketing agreement.
- 927.102 Order.
- 927.103 Organically produced pears.

#### Communications

927.105 Communications.

#### Exemption Certificates

- 927.110 Determination of district percentages.
- 927.110a Application for exemption certification.
- 927.111 Exemption committee.
- 927.112 Issuance of exemption certificate.
- 927.113 Appeal to Control Committee.
- 927.114 Appeal to Secretary.

#### Exemptions and Safeguards

- 927.120 Pears for charitable or byproduct purposes.
- 927.121 Pears for gift purposes.
- 927.122 Shipments to designated storages.
- 927.123 Interest and late payment charges.

#### Reports

- 927.125 Reports.
- 927.142 Reserve fund.
- 927.236 Assessment rate.
- 927.316 Handling regulation.

#### Subpart—Control Committee Rules and Regulations

##### Definitions

##### § 927.100 Terms.

Each term used in this subpart shall have the same meaning as when used in the marketing agreement and order.

##### § 927.101 Marketing agreement.

*Marketing agreement* means Marketing Agreement No. 89, as amended, regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California.

##### § 927.102 Order.

*Order* means Order No. 927, as amended (§§ 927.1 to 927.81), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California.

##### § 927.103 Organically produced pears.

*Organically produced pears* means pears that have been certified by an organic certification organization currently registered with the Oregon or Washington State Departments of Agriculture, or such certifying organization accredited under the National Organic Program.

#### Communications

##### § 927.105 Communications.

Unless otherwise prescribed in this subpart, or in the marketing agreement and order, or required by the Control Committee, all reports, applications, submittals, requests, inspection

certificates, and communications in connection with the marketing agreement and order shall be forwarded to: Winter Pear Control Committee, 4382 SE International Way, Suite A, Milwaukie OR 97222-4635.

### Exemption Certificates

#### § 927.110 Determination of district percentages.

(a) The Control Committee, at its meeting held on or before August 1 of each year for the purpose of making recommendations to the Secretary under the provisions of § 927.50, shall estimate the district percentages which the grades and sizes of each variety of pears permitted to be shipped from each district under the recommended regulation bears to the total quantity of each variety of pears which could be shipped from that district in the absence of regulation.

(b) Any notice issued or given pursuant to this estimate shall specifically state that each of the said percentages is merely an estimate subject to change, and is not to be relied upon until final action is taken as hereinafter provided. Each exemption committee, as hereinafter constituted in each district, shall meet and elect a district chairman and a secretary, either at or within ten days following said meeting of the Control Committee. Said district chairman shall immediately notify the secretary of the Control Committee of the names of the chairman and the secretary. The chairman of each exemption committee shall call a meeting of such committee within his district not later than a date to be determined each year by the Control Committee at the meeting specified in paragraph (a) of this section.

(c) At said district meeting, the district percentage estimates made by the Control Committee shall be reviewed by the exemption committee, and, if found to be not in accordance with conditions then existing within the district, said committee shall recommend proper adjustments to the Control Committee. Each exemption committee shall make only one recommendation for adjustment of district percentages in any one season, and said recommendation shall be made not later than the date specified by the Control Committee, except that should a major change occur in the crop or crops in any district after such date, the exemption committee may recommend a further change in such percentages. On the basis of the information submitted to it by the exemption committees and such other information and evidence as is available to it, the

Control Committee shall establish all district percentages to be used in computing exemptions to growers. In the event no adjustment is recommended by the exemption committees by the date above specified, the Control Committee shall immediately, on the basis of information and evidence available to it, establish the district percentages to be used in computing exemptions to growers.

(d) The Control Committee shall give prompt notice to growers and handlers of the final percentages to be used in computing exemptions to growers.

(e) Any action taken by an exemption committee shall be approved by four affirmative votes, and each such committee shall keep accurate minutes and records of the proceedings of each of its meetings. A copy of such minutes and records shall be forwarded to the secretary of the Control Committee promptly after each meeting.

#### § 927.110a Application for exemption certification.

Each application for an exemption certificate authorizing the shipment (pursuant to § 927.54) during a particular marketing season of any variety of pears shall be filed with the Secretary of the Control Committee. At the same time, and in order to insure prompt handling of such application, the applicant shall mail or deliver a copy of the application to the chairman of the exemption committee in the district in which the pears are grown. The application should be filed at the time the pears are harvested, and must be filed prior to the time the applicant's crop is graded, sized, and packed. Each application duly mailed and received by the Secretary of the Control Committee shall be deemed to have been filed with the Secretary as of the date of such mailing. As a part, and in support, of the application for an exemption certificate, the applicant shall submit one or more inspection certificates (or copies thereof) issued by a duly authorized representative of the Federal-State Inspection Service indicating the percentage of such applicant's production of all pears of such variety which will meet the grade, size, and quality regulations in effect and the percentage which will not meet these regulations; and the volume of pears so inspected shall be representative of such applicant's total production of such variety. The said exemption committee shall have the right to make or cause to be made such additional investigation as may be necessary to determine whether the portion of the applicant's production covered by the inspection certificates adequately represents the

applicant's total production of such variety. The cost of such inspection shall be borne by the applicant. The application to be submitted shall be "Form E-1 Growers Application for Exemption Certificate" and shall contain the following information:

(a) The name and address of the applicant;

(b) The location of the orchard (by district and distance from the nearest town) from which the fruit is to be shipped pursuant to the exemption certificate;

(c) The number and age of the trees producing the particular variety for which exemption is requested;

(d) The estimated quantity of such variety which could be shipped by the applicant in the absence of the grade, size, or quality regulations in effect at the time the application is filed;

(e) The percentage of such variety, as set forth in the attached Federal-State inspection certificate or the weighted average of such percentages if there is more than one inspection certificate, which meets the requirements of the aforesaid effective grade, size, or quality regulations;

(f) The quantity of such variety which meets the requirements of the aforesaid effective grade, size, or quality regulations (such quantity shall be determined by applying the applicable percentage prescribed in paragraph (e) of this section to be the estimated quantity pursuant to paragraph (d) of this section);

(g) The total crop of such variety and the quantity shipped during the preceding marketing season;

(h) The names of the shippers who shipped all or any portion of the applicant's aforesaid crop during the preceding marketing season;

(i) The reasons why the quantity of the particular variety of pears, for which exemption is requested, does not meet the aforesaid effective grade, size, or quality regulations; and

(j) The name of the shipper or shippers who will ship the exempted pears if the exemption certificate is issued.

#### § 927.111 Exemption committee.

The members and alternate members of the Control Committee residing in the district in which the applicant grower's orchard is located shall act as an exemption committee for that district and shall make or cause to be made such investigation as may be necessary to determine whether and to what extent such applicant will be prevented, because of the aforesaid grade, size, or quality regulations in effect, from shipping as large a percentage of the

particular variety of his pears as the percentage of all pears of that particular variety permitted to be shipped from his district as determined by the Control Committee. In the event any member or alternate member of the Control Committee shall himself apply for an exemption certificate he shall be disqualified to serve as a member of the exemption committee to act upon the application.

**§ 927.112 Issuance of exemption certificate.**

In the event such exemption committee finds and determines from proof, satisfactory to the committee, that the applicant is entitled to an exemption certificate, such exemption certificate shall be issued so as to permit the applicant to ship or have shipped the requisite quantity of his pears. Each exemption certificate shall be signed by the secretary or assistant secretary of the Control Committee and one copy thereof shall be delivered to the grower, one copy shall be delivered to each shipper designated by the grower to receive a copy, and one copy shall be retained in the files of the Control Committee. In the event the secretary of the Control Committee has reason to believe that any such finding or determination by an exemption committee is improper or not in accordance with the facts, he may disapprove the same, and shall make or cause to be made such further investigation as he may determine to be necessary or advisable, and may request or obtain such information as he may deem necessary to enable him to determine whether or not and to what extent an applicant is entitled to an exemption certificate.

**§ 927.113 Appeal to Control Committee.**

Any grower, whose application is denied in whole or in part by the appropriate exemption committee or by the secretary of the Control Committee, may file a written appeal with the Control Committee within fifteen (15) days after the date of the notice to such grower of the decision involved. Upon receipt of such appeal, the secretary of the Control Committee shall submit the same, together with all applicable information and data, including the report of the exemption committee on that grower's application to the members of the Control Committee, who thereafter shall review the same and shall determine whether and to what extent the applicant is entitled to an exemption certificate. Thereupon the secretary of the Control Committee shall issue to that grower such exemption certificate as the Control Committee shall determine to be proper.

**§ 927.114 Appeal to Secretary.**

Any grower who is dissatisfied with the Control Committee's determination with respect to any appeal by that grower from a decision by an exemption committee or by the Secretary of the Control Committee with respect to that grower's application for an exemption certificate, may appeal from such determination by the Control Committee to the Secretary of Agriculture. Any such appeal shall be made by filing with the secretary of the Control Committee a written notice of appeal within fifteen (15) days after notice to that grower of the aforesaid determination by the Control Committee. Promptly upon receipt of notice of an appeal signed by the applicant, the secretary of the Control Committee shall forward to the Secretary of Agriculture, or to his designated representative, a true and correct copy of all information pertaining to that grower's application for an exemption certificate and the action taken thereon by the Control Committee, together with such written information and proof as was submitted to or obtained by the Control Committee with regard to said application, and a true copy of the appellant grower's notice of appeal.

**Exemptions and Safeguards**

**§ 927.120 Pears for charitable or byproduct purposes.**

Pears which do not meet the requirements of the then effective grade, size, or quality regulations shall not be shipped or handled for consumption by any charitable institution or for distribution by any relief agency or for conversion into any by-product, unless there first shall have been delivered to the manager of the Control Committee a certificate executed by the intended receiver and user of said pears showing, to the manager's satisfaction, that said pears actually will be used for one or more of the aforesaid purposes.

**§ 927.121 Pears for gift purposes.**

There are exempted from the provisions of the marketing agreement and order any and all pears which, in individual gift packages, are shipped directly to, or which are shipped for distribution without resale to, an individual person as the consumer thereof, and any and all pears which, in individual gift packages are shipped directly to, or are shipped for distribution without resale to, a purchaser who will use these pears solely for gift purposes and not for sale.

**§ 927.122 Shipments to designated storages.**

(a) Pears may be shipped without prior inspection and certification to any public warehouse in Yakima, Zillah, Wenatchee, or Grandview in the State of Washington; in Portland, Klamath Falls, or Medford in the State of Oregon; or in Tulelake or Yuba City in the State of California, for storage therein in transit: Provided, That any pears so shipped shall be inspected, and a certificate issued with respect thereto, as provided in § 927.60 of the marketing agreement and order, prior to such pears being removed from such warehouse. At the time any pears are so shipped into such public storage warehouse and again when such pears are shipped out of such warehouse, the handler shall, on his "Handler's Statement of Pear Shipments," report each such shipment as prescribed in § 927.125(b).

(b) Any pears shipped to one of the aforesaid storage warehouses pursuant to this section which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations may be repacked at such warehouse so as to meet such requirements, sold and delivered within the state where such warehouse is located for processing or conversion into by-products, or returned to the state where the pears were produced for repacking or for sale within such state: Provided, That there first shall have been submitted to the manager of the Control Committee proof, satisfactory to the manager, that the pears will not be handled contrary to the provisions of the marketing agreement and order; such proof shall include, in the case of sale and delivery for byproducts purposes, a written certificate, executed by both the handler and the intended receiver, stating that the pears will be processed or converted into by-products within the state where such warehouse is located.

**§ 927.123 Interest and late payment charges.**

Payments received more than 45 days after the date on which they are due shall be considered delinquent and subject to a late payment charge of \$25.00 or 2 percent of the total due, whichever is greater. Payments received more than 60 days after the date on which they are due shall be subject to a 1½ percent interest charge per month, until final payment is made and interest shall be applied to the total unpaid balance, including the late payment charge and any accumulated interest. Any amount paid shall be credited when the payment is received in the Control Committee office.

## Reports

### § 927.125 Reports.

(a) Each shipper handling pears covered by an exemption certificate shall keep an accurate record, in the manner provided on such certificate, of all shipments of such pears. Such shipper, after having shipped as many pears as authorized by the particular exemption certificate, shall promptly mail to the Secretary of the Control Committee, such handler's copy of the exemption certificate containing an accurate record of such shipments.

(b) Each handler shall furnish to the Control Committee, as of every other Friday, a report containing the following information on Form 1 "Handlers' Statement of Pear Shipments":

(1) The number of standard western pear boxes (two half boxes shall be counted as one box) of each variety of pears shipped by that handler during the preceding two weeks;

(2) The date of each shipment;

(3) The ultimate destination, by city and state or city and country; and

(4) The name and address of such handler. In addition, the handler shall indicate, for each lot of pears shipped in accordance with the provisions of § 927.122, the storage lot number, and the name and address of the storage warehouse.

(c) Each handler shall furnish to the Control Committee, as of every other Friday, a "Handler's Packout Report" containing the following information:

(1) The total of the packout of each variety;

(2) The quantity of each variety loose in storage;

(3) The volume of each variety sold; and

(4) The name and address of such handler.

(d) Each handler who has shipped less than 2,500 standard western pear boxes during any two-week reporting period of the shipping season may, in lieu of reporting biweekly, report as follows:

(1) At completion of harvest, on the next biweekly reporting date, furnish to the Control Committee a "Handler's Packout Report";

(2) After unreported shipments total 2,500 standard western pear boxes, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date;

(3) After completion of all shipments from regular storage (*i.e.* non-Controlled Atmosphere storage) at the end of the shipping season, furnish to the Control Committee a "Handler's Statement of

Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date;

(4) At mid-season for Controlled Atmosphere storage, at a date established by the Control Committee, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report"; and

(5) At the completion of all seasonal pear shipments, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date. Each of these reports shall be marked "final report" and include an explanation of the actual shipments versus the original estimate, if different.

(e) Each handler who has pears inspected and certificated in lots larger than carload lots and who wishes to rely on such lot inspections in lieu of inspection certificates for individual carlot shipments shall deliver to the manager within 10 days after shipment of any such pears a written report showing the quantity, variety, grade, and size of the pears so shipped and the date of shipment thereof, and said report shall identify such pears with the lot-inspection certificate covering the same, and shall further show what portion of that lot remains unshipped, and where located; such report shall be in addition to, and not in lieu of, the handler's reports of shipments required under paragraphs (b) and (c) of this section.

(f) Each handler shall specify on each bill of lading covering each shipment the variety, and number of boxes thereof, of all pears included in that shipment.

### § 927.142 Reserve fund.

(a) It is necessary and appropriate to establish and maintain an operating reserve fund in an amount not to exceed approximately one fiscal period's expenses to be used in accordance with the provisions of § 927.42 of the amended marketing agreement and this part, and

(b) Assessments collected for the period ended June 30, 1962, were in excess of the expenses for such period and the committee is hereby authorized to place \$2,500 of such excess in said reserve.

### Assessment Rate

#### § 927.236 Assessment rate.

On and after July 1, 2004, an assessment rate of \$0.49 per 44-pound standard box or container equivalent of conventionally and organically produced pears and, in addition, a

supplemental assessment rate of \$0.01 per 44-pound standard box or container equivalent of Beurre d'Anjou variety pears, excluding organically produced Beurre d'Anjou pears, is established for the Winter Pear Control Committee.

### § 927.316 Handling regulation.

During the period August 15 through November 1, no person shall handle any Beurre D'Anjou variety of pears for shipments to North America (Continental United States, Mexico, or Canada), unless such pears meet the following requirements:

(a) Beurre D'Anjou variety of pears shall have a certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core/pulp temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears have an average pressure test of 14 pounds or less. The handler shall submit, or cause to be submitted, a copy of the certificate issued on the shipment to the Control Committee.

(b) Each handler may ship on any one conveyance 8,800 pounds or less of Beurre D'Anjou variety of pears without regard to the quality and inspection requirements in paragraph (a) of this section.

Dated: October 7, 2005.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Federal Housing Enterprise Oversight

#### 12 CFR Part 1700

RIN 2550-AA33

#### Organization and Functions

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Final rule.

**SUMMARY:** The Office of Federal Housing Enterprise Oversight (OFHEO) is revising the regulation that describes its organization and functions. The revisions reflect changes in OFHEO's organizational structure and the functional responsibilities of some of its offices.

**DATES:** The final regulation is effective October 13, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mary Alice Donner, Senior Counsel,