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 984

[Doc. No. AMS–FV–09–0050; FV09–984–5 PR]

Walnuts Grown in California; Changes to Regulations Governing Voting Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on revisions to the administrative regulations governing voting procedures for the California Walnut Board (Board). The Board locally administers the marketing order that regulates the handling of walnuts grown in California (order). This rule would specify the voting procedures to be used for expanded types of non-assembled meetings and remove voting by telegraph. This would enable the Board to conduct business using current communication methods, which would result in time and cost savings to the Board and its members.

DATES: Comments must be received by December 8, 2009.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made 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: Debbie Wray, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Debbie.Wray@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

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@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the ''order.'' 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 Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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. A 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.

This proposal invites comments on revisions to the administrative regulations governing the Board's voting procedures to implement authority from a recent amendment to the order. It would expand the current procedures for voting by allowing voting by e-mail, facsimile, telephone, and videoconference, or by other means of communication. This proposal was unanimously recommended by the Board at a meeting on May 18, 2009.

Section 984.45(b) of the California walnut marketing order specifies the percentage requirements for quorum and voting procedures of the Board. Section 984.45(c) of the order provides authority for the Board to vote by mail or telegram, or by any other means of communication, and to prescribe, with the approval of USDA, the minimum number of votes that must be cast, as well as any other procedures that are necessary when the voting is by any of these communication methods. Section 984.45(d) of the order provides authority for the Board to meet by telephone or other means of communication.

Currently, Section 984.445 of the order's administrative regulations prescribes procedures for voting by mail or telegram but does not include procedures for voting by other means of communication, such as e-mail, facsimile, telephone, or videoconference.

At its meeting on May 18, 2009, the Board discussed the need to change the order's administrative regulations to include the use of current communication technologies to conduct business at non-assembled meetings, as authorized by a recent amendment to the order (73 FR 11328, March 3, 2008). Prior to the amendment, the Board had the authority to vote by mail or telegram upon due notice to all members but not to hold non-assembled meetings. As amended, the order provides for non-assembled meetings, but voting requirements and procedures for all such communication methods needed to be recommended by the Board and established through informal rulemaking. The Board unanimously recommended these changes at its meeting on May 18, 2009.

Using current communication methods and technology to vote at non-assembled meetings on matters deemed to be non-controversial, administrative, or of an emergency nature would result in cost savings by reducing time and travel expenses of Board members, many of whom are walnut producers and handlers who must travel long distances within California to attend meetings. Other Board expenses associated with holding assembled meetings, such as reserving meeting spaces, could also be reduced.

This proposal would expand the procedures currently prescribed for voting by mail or telegram to include voting by e-mail and facsimile. In addition, reference to voting by telegram would be removed from the regulations since this communication method generally has been replaced by newer technology. Finally, voting by roll call would be prescribed for meetings conducted by telephone, videoconference, or any other method of communication that enables interaction of Board members to ensure each member's vote by such method is accurately recorded.

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 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.

There are currently 58 handlers of California walnuts subject to regulation under the marketing order, and there are approximately 4,500 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural growers are defined as those having annual receipts of less than $750,000.

USDA's National Agricultural Statistics Service (NASS) reports that California walnuts were harvested from a total of 223,000 bearing acres during 2008–09. The average yield for the 2008–09 crop was 1.96 tons per acre, which is higher than the 1.56 tons per acre average for the previous five years. NASS reported the value of the 2008–09 crop at $1,210 per ton, which is lower than the previous five-year average of $1,598 per ton.

At the time of the 2007 Census of Agriculture, which is the most recent information available, approximately 89 percent of California's walnut farms were smaller than 100 acres. Fifty-four percent were between 1 and 15 acres. A 100-acre farm with an average yield of 1.96 tons per acre would have been expected to produce about 196 tons of walnuts during 2008–09. At $1,210 per ton, that farm's production would have had an approximate value of $237,000. Assuming that the majority of California's walnut farms are still smaller than 100 acres, it could be concluded that the majority of the growers had receipts of less than $237,000 in 2008–09. This is well below the SBA threshold of $750,000; thus, the majority of California's walnut growers would be considered small growers according to SBA's definition.

Industry information regarding the value of merchantable walnuts shipped by handlers during the 2008–09 marketing year is not yet available; however, the industry reported that during the 2007–08 marketing year, approximately two-thirds of California's walnut handlers shipped merchantable walnuts valued under $7,000,000 and would therefore be considered small handlers according to the SBA definition.

This proposal would revise procedures currently prescribed under § 984.445 of the order for voting by mail and telegram to include other means of communication, including e-mail, facsimile, telephone, and videoconference. This revision to the regulations would incorporate authority from a recent amendment to the order concerning voting procedures and would allow the Board to conduct business at non-assembled meetings using current methods of communication. Authority for this action is provided in § 984.45 of the order.

The majority of the Board's members are walnut producers and handlers who are located at various locations throughout California, and it can be difficult to assemble these members in one location for a meeting, especially during harvest season. By prescribing procedures for voting by the communication methods authorized by the order, the Board would be able to vote on non-controversial, administrative, or emergency matters at non-assembled meetings, which would reduce travel time and expenses for producer and handler Board members. Board expenses associated with holding assembled meetings, such as the cost of reserving a meeting room, would also be reduced.

The Board unanimously recommended these changes, which are necessary to implement authority provided by a recent amendment to the order. Therefore, no alternatives to these changes were considered practicable.

This action would not impose any additional reporting or recordkeeping requirements on either small or large walnut 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.

The Board's meeting was widely publicized throughout the walnut industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the May 18, 2009, 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 informational impacts of this action on small businesses.

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/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.445 is revised to read as follows:

§ 984.445 Procedures for voting by mail, e-mail, telephone, videoconference, facsimile, or any other means of communication.

(a) Whenever the Board votes upon any proposition by mail, e-mail, or facsimile, at least six members or alternates acting as members must vote and one dissenting vote shall prevent its adoption. Each proposition to be voted upon by mail, e-mail, or facsimile shall specify a time limit for members to vote, after which the alternates shall be given the opportunity to vote.

(b) Whenever the Board conducts meetings by telephone, videoconference, or any technology that enables member interaction, the vote shall be conducted by roll call.

Dated: October 1, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–24299 Filed 10–8–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0938; Directorate Identifier 2009–CE–052–AD]

RIN 2120–AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Model PC–7 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

This Airworthiness Directive (AD) is prompted due to the discovery of cracks caused by stress corrosion in the main-gear support struts. All the main-gear support struts that had cracks were made from material AA2024–T351 which has a lower resistance to stress corrosion cracking.

Such cracks, if undetected, could lead to the failure of the strut during landing which could then cause the Main Landing Gear (MLG) to collapse.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by November 23, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4059; *fax:* (816) 329–4090; *e-mail: doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0938; Directorate Identifier 2009–CE–052–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued FOCA AD HB–2009–011, dated September 10, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted due to the discovery of cracks caused by stress corrosion in the main-gear support struts. All the main-gear support struts that had cracks were made from material AA2024–T351 which has a lower resistance to stress corrosion cracking.

Such cracks, if undetected, could lead to the failure of the strut during landing which could then cause the Main Landing Gear (MLG) to collapse.

In order to correct and control the situation, this AD mandates the identification of the main-gear support struts to check if they have rounded clevis lugs and a Non-Destructive Inspection (NDI) procedure on the main-gear support struts if they have chamfered clevis lugs.

For main-gear support struts with chamfered clevis lugs that show cracks during the NDI, the MCAI also requires replacing any cracked main-gear support struts with parts of improved design. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

PILATUS Aircraft Ltd. has issued PILATUS PC–7 Service Bulletin No. 32–024, Rev. No. 1, dated November 17, 2008; and PILATUS PC–7 Service Bulletin No. 32–025, Rev. No. 1, dated November 17, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of