

information from various sources, such as the Board's Budget and Personnel Committee, representatives from private research firms, and input from industry personnel. Alternative expenditure levels were discussed by these groups, based upon the relative value of various activities to the hazelnut industry. Many growers at the May 17, 2017, meeting were in favor of even greater spending by the Board on promotional activities for hazelnuts, while handlers were more conservative.

The Board ultimately determined that 2017–2018 marketing year expenditures of \$878,627 were appropriate, and the recommended assessment rate, when combined with reserve funds and other income, should generate sufficient revenue to meet its budgeted expenses. Further, the Board will maintain a \$180,000 emergency fund throughout the 2017–2018 marketing year in order to cover any unforeseen or emergency operational expenses. If the 2017–2018 emergency funds are not expended, the resulting operating reserve would not exceed the limit authorized under the Order.

A review of historical information and preliminary information pertaining to the upcoming marketing year indicates that the grower price for the 2017–2018 marketing year could range between \$0.81 and \$1.80 per pound (NASS, 2017). Therefore, the estimated assessment revenue for the 2017–2018 marketing year as a percentage of total grower revenue could range between 0.74 and 0.33 percent, respectively.

This action increases 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 Marketing Order. In addition, the Board's meeting was widely publicized throughout the Oregon and Washington hazelnut 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 17, 2017, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

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 OMB and assigned OMB No. 0581–0178, "Vegetable and Specialty Crops." No changes in those requirements are necessary as a result of this action. Should any changes become necessary,

they would be submitted to OMB for approval.

This final rule imposes no additional reporting or recordkeeping requirements on either small or large Oregon and Washington hazelnut 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. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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.

A proposed rule concerning this action was published in the **Federal Register** on August 18, 2017 (82 FR 39369). Copies of the rule were mailed or sent via facsimile to all Board members and hazelnut handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending September 18, 2017, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. Both comments were generally in support of the assessment rate increase and believed that the action would have a minimal impact on consumers. However, one commenter was concerned that the notice and comment process for changes in assessment rates was burdensome, and the other commenter expressed the opinion that the assessment rate should have a time limit and should not be in effect indefinitely.

Notice and comment rulemaking is required by statute for all changes made to marketing order regulations, including, but not limited to, establishment of assessment rates. In addition, all marketing order regulations are in effect indefinitely unless a specific effective period is defined in the regulation when it is established. The Board chose not to establish a specific time period for the regulation and is aware that the regulation will be effective indefinitely until changed. Accordingly, no changes will be made to the rule as proposed, based on the comments received.

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.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 982

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

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

#### PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

- 1. The authority citation for 7 CFR part 982 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

- 2. Section 982.340 is revised to read as follows:

##### § 982.340 Assessment rate.

On and after July 1, 2017, an assessment rate of \$0.006 per pound is established for Oregon and Washington hazelnuts.

Dated: December 26, 2017.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2017–28171 Filed 12–28–17; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2017–1179; Product Identifier 2017–NM–177–AD; Amendment 39–19141; AD 2017–26–10]

**RIN 2120–AA64**

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2015–08–01, which applied to certain The Boeing Company Model 757 airplanes. AD 2015–08–01 required, depending on

airplane configuration, installing new relays and bracket assemblies, inspecting to ensure that the new relays do not contact adjacent wire bundles, torquing the bracket assembly installation nuts and ground stud nuts, retesting the bond resistance between the bracket assemblies and the terminal lugs on the ground studs, and doing related investigative and corrective actions if necessary. This AD does not retain any requirements, and instead requires deactivating the spoiler control module relays and capping and stowing the associated wiring on airplanes on which the actions required by AD 2015-08-01 have been done. This AD was prompted by a report of an uncommanded spoiler movement during flap configuration just before landing, on an airplane on which the actions required by AD 2015-08-01 had been done. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective January 3, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 3, 2018.

We must receive comments on this AD by February 12, 2018.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1179.

### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1179; 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 final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Myra Kuck, Aerospace Engineer, Cabin Safety, Mechanical & Environmental Systems Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone: 562-627-5316; fax: 562-627-5210; email: [Myra.J.Kuck@faa.gov](mailto:Myra.J.Kuck@faa.gov).

### SUPPLEMENTARY INFORMATION:

#### Discussion

We issued AD 2015-08-01, Amendment 39-18137 (80 FR 21645, April 20, 2015) (“AD 2015-08-01”), for certain Model 757 airplanes. AD 2015-08-01 required, depending on airplane configuration, installing new relays and bracket assemblies, inspecting to ensure that the new relays do not contact adjacent wire bundles, torquing the bracket assembly installation nuts and ground stud nuts, retesting the bond resistance between the bracket assemblies and the terminal lugs on the ground studs, and doing related investigative and corrective actions if necessary. AD 2015-08-01 resulted from numerous reports of unintended lateral oscillations during final approach, just before landing. We issued AD 2015-08-01 to reduce the chance of unintended lateral oscillations near touchdown, which could result in loss of lateral control of the airplane, and consequent airplane damage or injury to flight crew and passengers.

#### Actions Since AD 2015-08-01 Was Issued

Since we issued AD 2015-08-01, we have received a report of a momentary uncommanded spoiler movement during flap configuration just before landing, on a Model 757 airplane that had been inspected and modified in accordance with AD 2015-08-01. AD 2015-08-01 requires accomplishment of Boeing Service Bulletin 757-27A0152, which is intended to reduce the chance of a pilot-induced oscillation (PIO) during quick flight maneuvers, such as the final phase of approach in strong

wind conditions, by preventing the deployment, during landing operations, of spoiler pairs 1 and 12, and 5 and 8. Boeing’s subsequent investigation of Boeing Service Bulletin 757-27A0152 found that a switch in one of the relays added by that service information had failed to an electrically open position. We are issuing this AD to correct the unsafe condition on these products.

#### Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017. The service information describes procedures for deactivating the spoiler control module relays and capping and stowing the associated wiring. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### FAA’s Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

#### AD Requirements

This AD retains none of the requirements of AD 2015-08-01. This AD requires accomplishment of the actions identified as “RC” (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017, described previously. For information on the procedures and compliance times, see this service information at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1179.

#### Interim Action

We consider this AD interim action. If final action is later identified, we might consider further rulemaking then.

#### FAA’s Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because failure to deactivate the spoiler control module relays and cap and stow associated wiring can result in a failure condition that can cause an uncommanded spoiler movement

resulting in loss of controllability of the airplane during the approach phase of flight. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment.

However, we invite you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA-2017-1179 and Product Identifier 2017-NM-177-AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. We will consider all comments received by the closing date and may amend this final rule 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 final rule.

#### Costs of Compliance

We estimate that this AD affects 626 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

#### ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Deactivating spoiler control module relay .....	14 work-hours × \$85 per hour = \$1,190 .....	\$1,380	\$2,570	*

\* Based on our estimate of 169 airplanes that are in compliance with the requirements of AD 2015-08-01 and subject to the deactivation requirements of this AD, the total fleet cost for this AD is approximately \$434,330.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

#### Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on

the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),
- (3) Will not affect intrastate aviation in Alaska, and
- (4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015-08-01, Amendment 39-18137 (80 FR 21645, April 20, 2015), and adding the following new AD:

**2017-26-10 The Boeing Company:**  
Amendment 39-19141; Docket No. FAA-2017-1179; Product Identifier 2017-NM-177-AD.

#### (a) Effective Date

This AD is effective January 3, 2018.

#### (b) Affected ADs

This AD replaces AD 2015-08-01, Amendment 39-18137 (80 FR 21645, April 20, 2015) ("AD 2015-08-01").

#### (c) Applicability

This AD applies to The Boeing Company Model 757-200, -200PF, -200CB, and -300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017.

#### (d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

#### (e) Unsafe Condition

This AD was prompted by a report of a momentary uncommanded spoiler movement during flap configuration just before landing that occurred on an airplane on which the actions required by AD 2015-08-01 had been done. We are issuing this AD to prevent a failure condition that can cause an uncommanded spoiler movement resulting in loss of controllability of the airplane during the approach phase of flight.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Required Actions

(1) For airplanes in Configuration 1 in Groups 1, 2, and 3, as defined in Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017: Within 90 days after the effective date of this AD, do all applicable actions identified as "RC" (required for compliance) in, and in accordance with, the

Accomplishment Instructions of Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017.

(2) For airplanes in Configuration 2 in Groups 1, 2, and 3, as defined in Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017: No work is required by this paragraph.

#### (h) Prohibited Modification

As of the effective date of this AD, do not accomplish the actions specified in Boeing Service Bulletin 757-27A0152 on any airplane.

#### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to [9-ANM-LAACO-AMOC-Requests@faa.gov](mailto:9-ANM-LAACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2015-08-01 are not approved as AMOCs for any provision in this AD.

(5) For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(5)(i) and (i)(5)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

#### (j) Related Information

For more information about this AD, contact Myra Kuck, Aerospace Engineer, Cabin Safety, Mechanical & Environmental Systems Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard,

Lakewood, CA 90712-4137; phone: 562-627-5316; fax: 562-627-5210; email: [Myra.J.Kuck@faa.gov](mailto:Myra.J.Kuck@faa.gov).

#### (k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 757-27A0157, dated December 18, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

(4) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on December 22, 2017.

**John P. Piccola, Jr.,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2017-28158 Filed 12-28-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[Docket ID: DOD-2012-HA-0146]

RIN 0720-AB47

### TRICARE; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities

**AGENCY:** Office of the Secretary, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes reimbursement rates for Long Term Care Hospitals (LTCHs) and Inpatient Rehabilitation Facilities (IRFs) in accordance with the statutory requirement that TRICARE inpatient care "payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of

services of the same type under Medicare." This final rule adopts Medicare's reimbursement methodologies for inpatient services provided by LTCHs and IRFs. Each reimbursement methodology will be phased in over a 3-year period. This final rule also removes the definitions for "hospital, long-term (tuberculosis, chronic care, or rehabilitation)" and "long-term hospital care," and creates separate definitions for "Long Term Care Hospital" and "Inpatient Rehabilitation Facility" adopting Centers for Medicare & Medicaid Services (CMS) classification criteria. This final rule also includes authority for a year-end, discretionary General Temporary Military Contingency Payment Adjustment (GTMCPA) for inpatient services in TRICARE network IRFs when deemed essential to meet military contingency requirements.

**DATES:** This rule is effective March 5, 2018.

**Applicability Date:** The regulations setting forth the revised reimbursement systems shall be applicable for all admissions to Long Term Care Hospitals and Inpatient Rehabilitation Facilities, respectively, commencing on or after the first day of the month which is at least 120 days after the date of publication of this rule in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Sharon Seelmeyer, Defense Health Agency (DHA), Medical Benefits and Reimbursement Branch, telephone (303) 676-3690.

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

###### A. Purpose of the Final Rule

###### 1. Long Term Care Hospitals (LTCHs)

The purpose of this final rule is to establish a reimbursement system for LTCHs in accordance with the statutory provision at title 10, United States Code (U.S.C.), section 1079(i)(2). This statute requires that TRICARE payment for institutional care be determined, to the extent practicable, in accordance with the same rules as those that apply to payments to providers of services of the same type under Medicare. Medicare pays LTCHs using a LTCH Prospective Payment System (PPS) which classifies LTCH patients into distinct Diagnosis-Related Groups (DRGs). The patient classification system groupings are called Medicare Severity Long Term Care Diagnosis Related Groups (MS-LTC-DRGs), which are the same DRG groupings used under the Medicare acute hospital inpatient prospective payment system (IPPS), but that have