

# Proposed Rules

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 927

[Doc. No. AMS–SC–22–0079]

#### Pears Grown in Oregon and Washington; Amendment to the Marketing Order

**AGENCY:** Agricultural Marketing Service, Department of Agriculture (USDA).

**ACTION:** Proposed rule.

**SUMMARY:** This document invites comments on a proposed amendment to Marketing Order No. 927, which regulates the handling of pears grown in Oregon and Washington. The proposed amendment would revise the Fresh Pear Committee's approval requirement for recommending modifications to the marketing order's fresh pear handling regulations from 80 to 75 percent.

**DATES:** Comments must be received by December 11, 2023 to be assured consideration.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be submitted to the Docket Clerk electronically by Email at: [MarketingOrderComment@usda.gov](mailto:MarketingOrderComment@usda.gov), or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. All comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: <https://www.regulations.gov>. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public on the internet at the address provided above. Please be advised that the identity of the individuals or entities

submitting comments will be made public.

**FOR FURTHER INFORMATION CONTACT:**

Geronimo Quinones, Marketing Specialist, or Matthew Pavone, Chief, Rulemaking Services Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: [MarketingOrderComment@usda.gov](mailto:MarketingOrderComment@usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: [Richard.Lower@usda.gov](mailto:Richard.Lower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927 (referred to as the "Order") is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act." The Fresh Pear Committee ("Committee") administers the Order's provisions relating to the handling of pears for the fresh market. The Committee comprises growers and handlers of pears operating within Oregon and Washington, and a public member.

Section 608c(17) of the Act (7 U.S.C. 608c(17)) and the applicable rules of practice and procedure at 7 CFR 900.43 authorize amendment of the Order through this informal rulemaking action. The Agricultural Marketing Service ("AMS") will consider comments received in response to this proposed rule and, based on all the information available, will determine if the amendment is warranted. If AMS determines amendment of the Order is warranted, a subsequent proposed rule and notice of referendum would be issued, and growers would be allowed to vote for or against the proposed amendment. AMS would then issue a final rule effectuating any amendments favored in the referendum.

AMS is issuing this proposed rule in conformance with Executive Orders

12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This proposed rule is not a significant regulatory action within the meaning of Executive Order 12866. Accordingly, this action has not been reviewed by the Office of Management and Budget ("OMB") under section 6 of the Executive Order.

This proposed rule has been reviewed under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined this proposed rule is unlikely to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed 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 (7 U.S.C. 608c(15)(A)), any handler subject to a marketing 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 requesting a modification of the order or to be exempted therefrom. The handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The handler may then seek judicial review of the ruling by filing suit in the U.S. district

court for the district in which the handler is an inhabitant or has his or her principal place of business, provided the action is filed no later than 20 days after the date of entry of the ruling.

Section 608c(17) of the Act (7 U.S.C. 608c(17)) and the supplemental rules of practice at 7 CFR 900.43 authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. In determining whether informal rulemaking is appropriate, USDA is required to consider the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendment proposed herein is not unduly complex and the nature of the proposed amendment is appropriate for utilizing the informal rulemaking process to amend the Order. This proposed rule would revise the approval requirement for recommending modifications to the Order's fresh pear handling regulations. In addition, as discussed in the Initial Regulatory Flexibility Analysis section below, the proposed rule is not anticipated to have any significant economic impact on affected entities. Further, the proposed amendment would not impose any new reporting, record-keeping, or compliance costs on businesses.

The Committee recommended the proposed amendment to the Order following deliberations at a public meeting held on June 2, 2022. The Committee recommended this change by vote of nine in favor and two opposed, with one abstention. The two opposing voters did not feel the proposed change was necessary, and the abstention voter wanted an even lower requirement. The Committee submitted its formal recommendation to amend the Order through the informal rulemaking process on August 23, 2022, and subsequently provided AMS clarification about the recommendation on December 1, 2022.

### **Proposal—Prerequisites to Recommendations**

Currently, sections 927.33(a) and 927.52(a) of the Order provide that all decisions of the Committee require a supporting vote of 75 percent or greater; except that a decision to recommend changes to the regulations concerning the shipment of fresh pears requires a supporting vote of 80 percent or greater. The voting requirements in section 927.52 of the Order utilize a weighted calculation of votes based on the

handling of specific pear varieties. The Committee recommended modifying the current 80-percent voting requirement to 75 percent to align these voting requirements, mitigate confusion, and simplify the Order.

In 2020, the Committee recommended a regulation change to the Anjou pear variety in three separate motions, each receiving a separate vote. A subcommittee was formed to investigate how the proposed modification to the voting requirement might have affected the 2020 voting outcomes. The subcommittee analyzed the three motions by comparing each voting outcome at 75- and 80-percent vote requirement levels. Of the three, two motions did not have enough Committee support at either voting level and received only 52 percent and 66 percent of the vote. The third motion for the regulation change received 86 percent affirmative support by vote. Therefore, the subcommittee concluded that changing the requirement to 75 percent would not have altered the outcome of those votes.

While most of the Committee believes the current 80-percent voter affirmation requirement is too high, two members believe the change to 75 percent is not necessary, and one member believes the change is not impactful enough.

The Committee considered alternatives, including a 70-percent requirement. However, after running simulations with historical data to assess the impact of a 70- or 75-percent requirement, the Committee determined 75 percent to be optimal in that it did not materially affect vote outcomes for recommendations. Additionally, the adjustment from an 80- to 75-percent voting requirement establishes regulatory consistency with other Committee recommendations that have a 75-percent voting requirement. As such, the Committee believes this proposal would provide more continuity to all Committee voting procedures without materially changing voting outcomes, thereby mitigating confusion and improving the efficiency of its operations.

### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order to ensure that small businesses will not be unduly or disproportionately

burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 708 growers of fresh pears in the production area and 27 handlers subject to regulation under the Order. At the time this analysis was prepared, small agricultural producers of pears were defined by the Small Business Administration (“SBA”) as those having annual receipts equal to or less than \$3,500,000 (North American Industry Classification System code 111339, Other Noncitrus Fruit Farming), and small agricultural service firms were defined as those whose annual receipts are equal to or less than \$34,000,000 (North American Industry Classification System Code 115114, Postharvest Crop Activities) (13 CFR 121.201).

According to the National Agricultural Statistics Service, the 2020 average grower price received for fresh pears produced in Oregon and Washington was \$11.39 per standard 44-pound box or equivalent. Committee data indicates total production was 16,290,225 44-pound standard boxes or equivalent in the 2019–20 fiscal period. The total 2019–20 fiscal period value of assessable fresh “summer/fall” and “winter” pears grown in Oregon and Washington was \$185,545,663 (16,290,225 44-pound standard boxes or equivalent multiplied by \$11.39 per box equals \$185,545,663). Dividing the crop value by the estimated number of growers (708), yields an estimated average receipt per grower of \$262,070.

According to USDA Market News data, the reported average terminal price for 2020 Oregon and Washington fresh pears was \$34.87 per 44-pound standard box or equivalent (data reported in  $\frac{4}{5}$  bushel). Multiplying the Committee-reported 2019–20 Oregon and Washington total production of 16,290,225 44-pound standard boxes or equivalent by the estimated average price per box or equivalent of \$34.87 equals \$568,040,146. Dividing this figure by 27 regulated handlers yields estimated average annual handler receipts of \$21,038,524. Therefore, using the above data, the majority of growers and handlers of Oregon and Washington fresh pears may be classified as small entities.

This proposed rule would revise a provision in the Order's subpart regulating handling of pears grown in Oregon and Washington. This proposal would align the approval requirement for recommending modifications to the Order's fresh pear handling regulations,

which is 80 percent, with all other Committee voting requirements within the Order. Currently, all other Committee recommendations require 75 percent concurrence. The different voting requirements sometimes result in confusion for some Committee members, which can disrupt Committee operations.

The proposed amendment has no anticipated impact on the reporting, record-keeping, or compliance costs of small businesses.

The proposed amendment would not directly increase or decrease costs to members of the pear industry.

Alternatives to the proposed amendment were considered, including making no changes at this time. However, the Committee believes it is necessary to bring all voting requirements in-line for clarity and understanding to ensure the efficient execution of the Order.

#### Paperwork Reduction Act

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. 0581-0189, Fruit Crops. No changes in those requirements would be necessary because of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

The Committee's meetings are widely publicized throughout the pear production area. All interested persons are invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the meeting held on June 2, 2022, was open to the public, and all entities, both large and small, were encouraged to express their views on the proposed amendment.

Interested persons are invited to submit comments on the proposed amendment to the Order, including comments on the regulatory and information collection impacts of the proposed rule on small businesses.

Following analysis of any comments received on the amendment in this proposed rule, AMS will evaluate all available information and determine whether to proceed. If appropriate, a proposed rule and notice of referendum would be issued, and growers would be provided the opportunity to vote for or against the proposed amendment. Information about the referendum, including dates and voter eligibility requirements, would be published in a future issue of the **Federal Register**. A final rule would then be issued to effectuate any amendment favored in the referendum.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://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.

#### General Findings

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of Marketing Order 927; and all 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.

1. Marketing Order 927 as hereby proposed to be amended and all the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. Marketing Order 927 as hereby proposed to be amended regulates the handling of pears grown in Oregon and Washington and is applicable only to persons in the respective classes of commercial and industrial activity specified in the Order;

3. Marketing Order 927 as hereby proposed to be 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 marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. Marketing Order 927 as hereby proposed to be 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 pears produced or packed in the production area; and

5. All handling of pears grown or handled in the production area, as defined in Marketing Order 927, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

A 60-day comment period is provided to allow interested persons to respond to this proposal. Any comments received on the amendment proposed in this rule will be analyzed and, if AMS determines to proceed based on all the information presented, a producer referendum would be conducted to determine industry support for the proposed amendment. If appropriate, a final rule would then be issued to effectuate the amendments favored by producers participating in the referendum.

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

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 927 as follows:

#### **PART 927—PEARS GROWN IN OREGON AND WASHINGTON**

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

**Authority:** 7 U.S.C. 601-674.

■ 2. Amend § 927.52 by revising paragraph (a) to read as follows:

#### **§ 927.52 Prerequisites to recommendations.**

(a) Decisions of the Fresh Pear Committee or the Processed Pear Committee with respect to any recommendations to the Secretary pursuant to the establishment or modification of a supplemental rate of assessment for an individual variety or subvariety of pears shall be made by affirmative vote of not less than 75 percent of the applicable total number of votes, computed in the manner described in paragraph (b) of this section, of all members. Decisions of the Fresh Pear Committee pursuant to the provisions of § 927.50 shall be made by an affirmative vote of not less than 75 percent of the applicable total number of votes, computed in the manner

prescribed in paragraph (b) of this section, of all members.

\* \* \* \* \*

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2023–22335 Filed 10–6–23; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2023–1990; Project Identifier AD–2023–00734–A]

RIN 2120–AA64

#### Airworthiness Directives; Various Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for various airplanes modified with a certain configuration of the Garmin GFC 500 Autopilot System installed per Supplemental Type Certificate (STC) No. SA01866WI. This proposed AD was prompted by a report of an un-commanded automatic pitch trim runaway when the autopilot was first engaged. This proposed AD would require updating the applicable Garmin GFC 500 Autopilot System software for your airplane and would prohibit installing earlier versions of that software. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 24, 2023.

**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 [regulations.gov](https://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.

*AD Docket:* You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching

for and locating Docket No. FAA–2023–1990; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Christopher Withers, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946–4190; email: [christopher.d.withers@faa.gov](mailto:christopher.d.withers@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2023–1990; Project Identifier AD–2023–00734–A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

##### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Christopher Withers, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209. Any

commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

##### Background

The FAA received a report of an incident involving a Textron Aviation Inc. (type certificate previously held by Beech Aircraft Corporation, Raytheon Aircraft Company, Hawker Beechcraft Corporation, and Beechcraft Corporation) Model F33A Bonanza airplane having an un-commanded automatic pitch trim runaway when the autopilot was first engaged. The airplane was equipped with a Garmin GFC 500 Autopilot System that included an optional GSA 28 pitch trim servo. The affected Garmin GFC 500 Autopilot System includes G5, G3X Touch, or GI 275 software and was installed per STC No. SA01866WI using Master Drawing List 005–01264–00, Revisions 1 through 76.

The affected autopilot system software does not properly handle certain hardware failures of the pitch trim servo. This could result in an automatic un-commanded pitch trim runaway, and loss of control of the airplane.

An investigation by Garmin International and the National Transportation Safety Board (NTSB) determined this condition could exist on various Textron Aviation, Inc., Piper Aircraft, Inc., Commander Aircraft Corporation, Mooney International Corporation, and DAHER AEROSPACE airplane models equipped with a Garmin GFC 500 Autopilot System that includes an optional GSA 28 pitch trim servo.

##### FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

##### Proposed AD Requirements in This NPRM

This proposed AD would require updating the applicable Garmin GFC 500 Autopilot System software for your airplane and would prohibit installing earlier versions of that software.

##### Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 5,900 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD: