

Proposed Rules

Federal Register

Vol. 72, No. 110

Friday, June 8, 2007

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 981

[Docket No. AMS-FV-07-0051; FV07-981-2 PR]

Almonds Grown in California; Change in Requirements for Interhandler Transfers of Almonds and Request for Approval of New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on revising the requirements for interhandler transfers of almonds under the administrative rules and regulations of the California almond marketing order (order). The order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule would require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella* bacteria (*Salmonella*). This action would help the Board track treated and untreated almonds and facilitate administration of its mandatory *Salmonella* treatment program. This proposal also announces the Agricultural Marketing Service's (AMS) intention to request approval of a new information collection issued under the order.

DATES: Comments must be received by August 7, 2007. Pursuant to the Paperwork Reduction Act, comments on information collection burden that would result from this proposal must be received by August 7, 2007.

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 docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Maureen T. Pello, Assistant Regional Manager, 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: Maureen.Pello@usda.gov, or Kurt.Kimmel@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@usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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. Such 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 proposed rule invites comments on revising the requirements for interhandler transfers of almonds under the administrative rules and regulations of the order. This rule would require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would enable the Board to track treated and untreated almonds and help facilitate administration of its mandatory treatment program. This action was unanimously recommended by the Board at a meeting on March 28, 2007.

Section 981.55 of the order provides authority for handlers to, upon notice to and under supervision of the Board, transfer almonds to another handler. Marketing order obligations regarding volume regulation, when in effect, and assessments must be fully met and may be divided between the participating handlers. Section 981.455 requires handlers to report to the Board on ABC Form No. 7, "Interhandler Transfer of Almonds," information regarding interhandler transfers. Paragraph (a) of that section currently requires the following information: (1) Date of transfer; (2) the names and plant locations of both the transferring and receiving handlers; (3) the variety of almonds transferred; (4) whether the almonds are shelled or unshelled; and (5) the name of the handler assuming reserve and assessment obligations on the almonds transferred.

In August 2006, the Board recommended a mandatory treatment program to reduce the potential for *Salmonella* in almonds. USDA engaged in informal rulemaking to implement the program. A final rule was published

on March 30, 2007 (61 FR 15021). Beginning in September 2007, handlers must subject their almonds to a process that achieves a 4-log reduction in *Salmonella* prior to shipment. The program exempts untreated almonds that are shipped to manufacturers in the U.S., Canada, and Mexico who agree to treat the almonds and untreated almonds that are shipped outside the U.S., Canada, and Mexico.

To help track treated and untreated almonds, the Board met in March 2007 and recommended revising the order's administrative rules and regulations to require handlers to report to the Board whether or not almonds transferred to other handlers were treated under the mandatory treatment program. Handlers would also have to include an identification number for each lot transferred. This number could be a contract number or other unique handler number that could identify the lot. Under the mandatory *Salmonella* treatment program, handler records must provide the ability to differentiate treated from untreated almonds (§ 981.442(b)(5)). Requiring handlers to provide lot identification numbers on their interhandler transfer forms would complement this requirement. These changes to the interhandler transfer requirements would help facilitate administration of the mandatory *Salmonella* treatment program. Paragraph (a) in § 981.455 is proposed to be revised accordingly.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this 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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 6,000 producers of almonds in the production area and approximately 115 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as

those whose annual receipts are less than \$6,500,000.

Data for the most recently completed crop year indicate that about 52 percent of the handlers shipped under \$6,500,000 worth of almonds. Dividing the average almond crop value for 2003–2005 reported by the National Agricultural Statistics Service (\$2.043 billion) by the number of producers (6,000) yields an average annual producer revenue estimate of about \$340,000. Based on the foregoing, about half of the handlers and a majority of almond producers may be classified as small entities.

This rule would revise § 981.455(a) of the order's administrative rules and regulations to require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would help the Board track treated and untreated almonds and help ensure the integrity of its mandatory program. Authority for this change is provided in §§ 981.55 of the order.

Regarding the impact of this action on affected entities, it would merely require handlers who transfer almonds to other handlers to indicate on ABC Form No. 7, "Interhandler Transfer of Almonds," whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. Handlers would also be required to include a lot identification number for each lot transferred.

Regarding alternatives to this action, the Board considered not requiring handlers to report whether their transferred almonds were treated to achieve a 4-log reduction in *Salmonella*. However, this would not allow the Board to track treated and untreated almonds. Thus, the Board unanimously recommended revising the requirements regarding interhandler transfers of almonds.

This action would slightly modify the reporting requirements for all California almond handlers. All handlers must currently report their interhandler transfers to the Board on ABC Form No. 7, "Interhandler Transfer of Almonds." This form is currently approved by the Office of Management and Budget (OMB) under OMB No. 0581–0178, Vegetable and Specialty Crops. This rule would require that two extra columns be added to this form. One column would allow handlers to indicate whether or not the transferred almonds were treated to achieve a 4-log reduction in *Salmonella*. The second column would provide for inclusion of a lot

identification number for tracking purposes. The revised form is being submitted to the OMB for approval under OMB No. 0581–NEW. Once approved, this information collection will be merged into OMB No. 0581–0178. Specific burden information is detailed later in this document in the section titled Paperwork Reduction Act.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by the industry and public sector agencies.

Additionally, the meetings were widely publicized throughout the California almond industry and all interested persons were invited to attend the meetings and participate in deliberations on all issues. The Board's Food Quality and Safety Committee discussed this issue on January 30, 2007. The committee recommended the change to the Board on March 28, 2007. Both of these meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on 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/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.

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request approval of a new information collection under the marketing order for California almonds. This new collection is a modification of currently approved ABC Form 7, "Interhandler Transfer of Almonds," under OMB No. 0581–0178, Vegetable and Specialty Crops. Upon approval, this information collection will be merged into OMB No. 0581–0178.

Title: Almonds Grown in California, Marketing Order No. 981.

OMB No.: 0581–NEW.

Expiration Date of Approval: 3 years from OMB date of approval.

Type of Request: New collection.

Abstract: The information collection requirement in this request is essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the California almond marketing order program, which has been operating since 1950.

The Board met on March 28, 2007, and unanimously recommended revising the requirements for interhandler transfers of almonds whereby handlers who transfer almonds to other handlers would have to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would enable the Board to track treated and untreated almonds and help facilitate administration of its mandatory treatment program. This document concerns the reporting requirements regarding this change.

This information collection is only used by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters' staff, and authorized employees and agents of the Board. Authorized Board employees, agents, and the industry are the primary users of the information and AMS is the secondary user.

ABC Form No. 7 Interhandler Transfer of Almonds

Estimate of Burden: Public reporting burden for this collection of information is estimated to be 0.5 hour per response.

Respondents: Almond handlers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 125 per year.

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-NEW and the California almond marketing order, and be sent to the USDA in care of the Docket Clerk at the address above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

The 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 60-day comment period is provided to allow interested persons to comment on this proposed information collection.

List of Subjects in 7 CFR Part 981

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

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.455 is amended by revising paragraph (a) to read as follows:

§ 981.455 Interhandler transfers.

(a) *Transfers of almonds.* Interhandler transfers of almonds pursuant to § 981.55 shall be reported to the Board on ABC Form 7. The report shall contain the following information:

- (1) Date of transfer;
- (2) The names, and plant locations of both the transferring and receiving handlers;
- (3) The variety of almonds transferred;
- (4) Whether the almonds are shelled or unshelled;
- (5) The name of the handler assuming reserve and assessment obligations on the almonds transferred;
- (6) Whether the almonds had been treated to achieve a 4-log reduction in *Salmonella* bacteria, pursuant to § 981.442(b); and
- (7) A unique handler identification number for each lot.

* * * * *

Dated: June 4, 2007.

Lloyd C. Day,
Administrator, Agricultural Marketing Service.

[FR Doc. 07–2837 Filed 6–5–07; 9:48 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28370; Directorate Identifier 2003–NM–239–AD]

RIN 2120-AA64

Airworthiness Directives; Goodrich Evacuation Systems Approved Under Technical Standard Order (TSO), TSO–C69, TSO–C69a, TSO–C69b, and TSO–69c, Installed on Various Boeing, McDonnell Douglas, and Airbus Transport Category Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Goodrich evacuation systems approved under TSO-C69, TSO-C69a, TSO-C69b, and TSO-69c, installed on certain Boeing, McDonnell Douglas, and Airbus transport category airplanes. For certain systems, this proposed AD would require replacing the evacuation systems shear-pin restraints with new ones. For certain other systems, this proposed AD would require an inspection for manufacturing lot numbers; and a general visual inspection of the shear-pin restraint for discrepancies, and corrective actions if necessary. This proposed AD is prompted by several reports of corroded shear-pin restraints that prevented Goodrich evacuation systems from deploying properly. We are proposing this AD to prevent failure of the evacuation system, which could impede an emergency evacuation and increase the chance of injury to passengers and flightcrew during the evacuation.

DATES: We must receive comments on this proposed AD by July 23, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, Room PL–401, Washington, DC 20590.

- *By fax:* (202) 493–2251.

- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building,