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 982

[Docket No. FV01–982–3 PR]

Hazelnuts Grown in Oregon and Washington; Establishment of Reporting Requirements for Imported Hazelnuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would establish reporting requirements for hazelnuts imported by handlers of hazelnuts grown in Oregon and Washington. The rule would require handlers to report the receipt and disposition of hazelnuts grown outside of the United States and was recommended by the Hazelnut Marketing Board (Board), the agency responsible for local administration of the marketing order regulating the handling of hazelnuts grown in Oregon and Washington. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. This proposed reporting requirement would provide the Board with more accurate information on the total supply of hazelnuts being handled in Oregon and Washington. This would facilitate the Board's preparation of its annual marketing policy and would help in its ability to track both domestic and foreign product.

DATES: Comments must be received by October 22, 2001.

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, PO Box 96456, room 2525–S, Washington, DC 20090–6456; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket 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.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, Oregon 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement No. 115 and Order No. 982 both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington, 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 (Department) 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. This proposal 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 the Secretary 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 the Secretary 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 the Secretary'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 rule would establish reporting requirements for hazelnuts imported by handlers of hazelnuts grown in Oregon and Washington. The rule would require handlers to report the receipt and disposition of hazelnuts grown outside of the United States. The proposed reporting requirement would provide the Board with more accurate information on the total supply of hazelnuts being handled in Oregon and Washington.

At its November 14, 2000, meeting, the Board passed a general recommendation to require handlers to report imported hazelnuts. After developing procedures and a form necessary for implementation, the Board submitted its recommendation to the Department in May 2001.

Sections 982.64 through 982.67 of the order currently authorize the Board to require certain specific reports from handlers, including creditable promotion and advertising reports, carryover reports, shipment reports, and reports on the disposition of restricted hazelnuts. Section 982.68 of the order provides additional authority for the Board, with the approval of the Secretary, to require such other reports as the Board may require to perform its duties under the order.

The Board believes that more accurate information on the total supply of hazelnuts moving in and out of Oregon and Washington—both foreign and domestic product—would facilitate the administration of the order. The Board would use this information to more efficiently track the receipt and disposition of hazelnuts by handlers in Oregon and Washington. Furthermore, the Board would use this information in

its marketing policy deliberations each fall when it reviews the crop estimate, handler carryover, and other factors to determine whether volume regulation would be appropriate. In addition, the Board is concerned that imported hazelnuts might be included in handler inventory reports of Oregon and Washington hazelnuts.

In addition to the domestic crop, of which 100 percent is produced in Oregon and Washington, hazelnuts are imported into the United States from Canada and Turkey, and occasionally from Italy. Hazelnuts produced in Oregon and Washington generally represent from 3 to 5 percent of the world crop. According to USDA statistics, the majority of hazelnuts imported into the United States are in kernel form, of which about 96 percent are from Turkey. A small percentage of imports are inshell hazelnuts and generally are from British Columbia, Canada, and enter the U.S. through Washington State. Although information pertaining to the quantity of imported hazelnuts is currently available, information specific to the receipt and disposition by Oregon and Washington hazelnut handlers is lacking.

A major concern of the Board is the inshell hazelnuts imported from Canada by Oregon and Washington handlers. As production in Canada has increased, there has been an increase in Canadian hazelnuts imported into Oregon and Washington. These hazelnuts are generally the same variety (Barcelona) as are produced in Oregon and Washington. If these hazelnuts are placed in the domestic inshell market without its knowledge, the Board's marketing policy calculations could be inaccurate. The Board wants to collect import hazelnut data to see how much is being imported and disposed of by domestic handlers.

According to the National Agricultural Statistics Service, the 10-year average annual production of hazelnuts grown in Oregon and Washington is 29,800 inshell tons. Of that total, an average of 4,253 tons was sold in the domestic market. Furthermore, according to the Foreign Agricultural Service, imports during the same 10-year period averaged 316 tons. The five-year average for imports is 534 tons, however, indicating the increase may well be significant enough to impact the inshell domestic market.

The proposed report, *F/H Form 1f,* would be submitted to the Board monthly when imported hazelnuts are received and shipped by the handler to a buyer in the United States or exported inshell or shelled. The Board estimates that these reports would only be submitted five times per year by each importing handler. The report would include the quantity of such hazelnuts received, country of origin, inspection certificate number, whether such hazelnuts were inshell or kernels, the disposition outlet (domestic, export, inshell, or shelled, etc.), and the shipment date of such hazelnuts.

The Board also recommended that, with each report, the handler submit a copy of the inspection certificate issued by the Federal-State Inspection Service (FSIS) for compliance purposes. The inspection certificate would indicate the name of the person from whom the hazelnuts were received, the date the hazelnuts were received by the handler, the number of tons and U.S. Custom Service entry number, whether the product is inshell or shelled, the quantity of hazelnuts, country of origin, the name of the FSIS inspector who issued the certificate, and the date such certificate was issued. The Board believes inspection certificates are necessary to verify handler receipt and disposition reports for imported hazelnuts.

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 800 growers of hazelnuts in the production area and approximately 24 handlers subject to regulation under the order. Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the SBA definition, the Board estimates that 21 of the 24 handlers and all of the growers are small entities. Board records show that in the 1999–2000 marketing year approximately 9 percent of the handlers shipped over 7,692,308 pounds of hazelnuts, and 91 percent of the handlers shipped under 7,692,308 pounds of hazelnuts. Thus, based on an average price of $0.65 per pound at the point of first sale, it can be concluded that the majority of hazelnut handlers may be classified as small entities, excluding receipts from other sources.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

This rule would add a new § 982.467 to the order's administrative rules and regulations which would require handlers to report to the Board the receipt and disposition of hazelnuts grown outside of the United States. This would provide the Board with more accurate information on the total available supply of hazelnuts—foreign and domestic product—and would help facilitate program administration. Authority for requiring handlers to submit this information to the Board is provided in § 982.68 of the order.

Regarding the impact of the proposed action on affected entities, this rule should impose minimal additional costs. The Board estimates that about five handlers have imported hazelnuts over the past few years. Such handlers would be required to submit an additional monthly report to the Board when imported hazelnuts are received and shipped, along with inspection certificates or other information required by the Board for verification purposes. The Board estimates that each affected handler would submit about five of these reports annually.

An alternative to the proposal would be to continue the current practice of not collecting information from handlers on the receipt and disposition of imported hazelnuts. However, as previously mentioned, the Board believes it can better administer the order by obtaining more accurate information on the total available supply of hazelnuts being received and disposed of by Oregon and Washington handlers, including foreign and domestic product. The only way this information can be obtained by the Board is to directly collect it from handlers. This information would facilitate program administration by improving the Board's base of information from which to make decisions.

Another alternative the Board considered was whether it would be useful to collect information on hazelnuts grown outside of Oregon and Washington, but within the United States. However, Board members agreed that the quantity of domestic hazelnuts grown outside the production area and handled by regulated handlers is insignificant commercially, and, therefore, not needed.

If implemented, this proposed rule would impose and added reporting and recordkeeping burden on handlers that receive hazelnuts from outside of the United States. The Board has estimated that five handlers may import hazelnuts during the marketing year. Such handlers would be required to submit a receipt and disposition report (*F/H Form 1f*) to the Board monthly when imported hazelnuts are received and shipped. The Board estimates that these reports would be submitted about five times per year per handler, and would require that each handler spend about five minutes to complete each report. Thus, the annual burden associated with this information collection should total no more than two hours for the industry. The information would be collected on *F/H Form 1f*. That form is being submitted to the Office of Management and Budget (OMB) for approval under OMB Control No. 0581–0178 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

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. The Department has identified one relevant Federal rule regarding requirements for hazelnuts grown outside of the United States. Under section 608e of the Act, whenever certain specified commodities are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestic commodity. Hazelnuts are included under section 608e of the Act. Thus, importers of hazelnuts are required to have such hazelnuts inspected by the Federal-State inspection service. Importers whose hazelnuts meet section 608e requirements do not have to submit any paperwork to the USDA. However, importers whose hazelnuts fail section 608e requirements, or whose hazelnuts are being sent to designated outlets (animal feed, processing, or charity) have to submit paperwork to the USDA. Only a small amount of information required by the USDA in these instances or by the Board through this rule would be duplicative.

In addition, the Board's meeting was widely publicized throughout the 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 November 14, 2000, 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 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.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS is seeking Office of Management and Budget (OMB) approval for F/H Form 1f. This form will be used under the marketing order for hazelnuts grown in Oregon and Washington. The collection requirements for the hazelnut marketing order are included in the vegetable and specialty crops information collection package.

Title: Vegetable and Specialty Crops.

OMB Number: 0581–0178.

Expiration Date of Approval: April 30, 2004.

Type of Request: Revision of a currently approved information collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the Oregon-Washington hazelnut marketing order program, which has been operating since 1949. On November 14, 2000, the Board passed a general recommendation to require handlers to report to the Board the receipt and disposition of hazelnuts grown outside of the United States. After developing procedures and the form needed for implementation, the Board submitted its recommendation in May 2001. This information would be reported on *F/H Form 1f*. This notice concerns this report, in addition to the accompanying regulation previously discussed regarding requiring this report be submitted by handlers to the Board.

The Board would like to have better information on the total supply of hazelnuts available which includes both foreign and Oregon-Washington product. The Board would use this information in its marketing policy deliberations each fall when it reviews the crop estimate, handler carryover, and other factors to determine whether volume regulation would be appropriate. In addition, the Board has some concerns that imported hazelnuts could be included in handler inventory reports of Oregon-Washington hazelnuts. Accurate information regarding the supply of hazelnuts is needed by the Board in its administration of the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs regional and headquarter's staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Oregon-Washington hazelnut handlers who receive hazelnuts grown outside of the United States.

Estimated Number of Respondents: 5.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 2 hours.

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 Marketing Order for Hazelnuts grown in Oregon and Washington 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.

A 60-day comment period is provided to allow interested persons to respond to this proposal.

List of Subjects in 7 CFR Part 982

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

For the reasons set forth in the preamble, 7 CFR part 982 is proposed to be 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. A new § 982.467 is added to read as follows:

§ 982.467 Report of receipts and dispositions of hazelnuts grown outside the United States.

Each handler who receives hazelnuts grown outside the United States shall report to the Board monthly on *F/H Form 1f* the receipt and disposition of such hazelnuts. All reports submitted shall include transactions through the end of each month, or other reporting periods established by the Board, and are due in the Board office on the tenth day following the end of the reporting period. The report shall include the quantity of such hazelnuts received, the country of origin for such hazelnuts, inspection certificate number, whether such hazelnuts are inshell or kernels, the disposition outlet, and shipment date of such hazelnuts. With each report, the handler shall submit copies of the applicable inspection certificates.

Dated: August 16, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–21176 Filed 8–21–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–86–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600R Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A300 B2 and A300 B4 series airplanes, and all A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes. The original notice of proposed rulemaking (NPRM) would have required repetitive inspections for cracking of certain fittings, corrective action if necessary, and, for certain airplanes, a modification; and would have provided for optional terminating action for the repetitive inspections. That proposal was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. This supplemental NPRM revises the original NPRM by including additional variables for determination of the compliance times, allowing an optional repair for certain cracking conditions, and removing certain airplanes from the applicability. The actions specified by this new proposed AD are intended to detect and correct propagation of cracks on the frame 40 aft fittings due to local stress concentrations at the frame 40 upper flange runout, which could result in reduced structural integrity of the airplane.

DATES: Comments must be received by September 17, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–86–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9–anm–nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–86–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to