

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 7 CFR Part 301**

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

**PART 301—DOMESTIC QUARANTINE NOTICES**

■ 1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301–89.3, paragraph (g) is amended under the heading “Texas” by removing the entries for Baylor County and Knox County and by revising the entries for Throckmorton County and Young County to read as follows:

**§ 301.89–3 Regulated areas.**

\* \* \* \* \*

(g) \* \* \*

**Texas**

*Throckmorton County.* Beginning in the northeastern portion of the county at the line of longitude –98.9921° W and the line of latitude 33.2836° N; then south along the line of longitude –98.9921° W to the line of latitude 33.2055° N; then east along the line of latitude 33.2055° N to the line of longitude –98.9891° W; then south along the line of longitude –98.9891° W

to the line of latitude 33.1809° N; then east along the line of latitude 33.1809° N to the Throckmorton/Young County line at the line of longitude –98.9527° W; then north along the line of longitude –98.9527° W to the line of latitude 33.2836° N; then west along the line of latitude 33.2836° N to the point of beginning.

*Young County.* Beginning in the northwestern portion of the county at the line of longitude –98.9527° W and the line of latitude 33.2836° N; then south along the line of longitude –98.9527° W to the line of latitude 33.1809° N; then east along the line of latitude 33.1809° N to the line of longitude –98.8762° W; then north along the line of longitude –98.8762° W to the line of latitude 33.1946° N; then east along the line of latitude 33.1946° N to the line of longitude –98.8356° W; then north along the line of longitude –98.8356° W to the line of latitude 33.2880° N; then west along the line of latitude 33.2880° N to the line of longitude –98.9430° W; then south along the line of longitude –98.9430° W to the line of latitude 33.2836° N; then west along the line of latitude 33.2836° N to the point of beginning.

Done in Washington, DC, this 1st day of April 2008.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–7194 Filed 4–4–08; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 983**

[Docket No. AMS–FV–07–0095; FV07–983–2 FR]

**Pistachios Grown in California; Change in Reporting Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule changes the current reporting requirements prescribed under the California pistachio marketing order (order). The order regulates the handling of pistachios grown in California and is administered locally by the Administrative Committee for Pistachios (committee). These changes will modify one existing committee form and add a new form to a currently-approved information collection. The information collected will require handlers to report production and producer data, enabling the committee

to obtain better information for preparing its annual marketing policy statement and conducting committee nominations and periodic referenda under the order.

**DATES:** *Effective Date:* April 8, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Terry Vawter, Senior Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: [Terry.Vawter@usda.gov](mailto:Terry.Vawter@usda.gov) or [Kurt.Kimmel@usda.gov](mailto: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](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Order No. 983 (7 CFR part 983), regulating the handling of pistachios 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 final 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed

not later than 20 days after the date of the entry of the ruling.

This final rule changes the reporting requirements prescribed under the order. These changes will modify one committee form and add a new form to the currently-approved information collection. The new form will require handlers to report production and producer data. This new data will enable the committee to obtain better information for preparing its annual marketing policy statement and for conducting committee nominations and periodic referenda for pistachio producers. These changes were unanimously recommended by the committee on April 2, 2007.

Under § 983.47 handlers are required to furnish such reports as the committee, with the approval of the Secretary, needs to enable the Secretary and the committee to perform their functions.

As a result of a producer referendum, the California Pistachio Commission (CPC), a California State marketing program, was terminated in the spring of 2007. Data historically collected by the CPC and shared with the committee is no longer available. Such data includes information on the total available supply of pistachios grown in California and on the producers who produced the pistachios.

Thus, the committee unanimously recommended changes to its reporting requirements to capture information necessary for the effective administration of the Federal order that is no longer available through the CPC. Specifically, the committee recommended revising its current ACP Form 7, "Monthly Report of Inventory/Shipments," and creating a new form, ACP Form 8, "Producer Delivery Report." These forms will allow the committee to collect production, producer, inventory, and shipment data from handlers.

Requiring handlers to report such data will enable the committee to obtain better information on the total available supply of pistachios grown in California and to contact pistachio producers. The order requires the committee to prepare an annual marketing policy statement, pursuant to § 983.37. Several elements are required for an acceptable marketing policy statement: production, harvesting, processing, and storage conditions data. The committee is also required to hold annual nominations for seats on the committee, and USDA is required to conduct periodic continuance referenda. The committee needs producer and production data to fulfill order requirements.

Currently on the ACP Form 7, all handlers must report their beginning inventory, grower deliveries, shipments of pistachios to the domestic market, interhandler transfers, non-handler purchases of California product, inventory adjustments on split and shelled pistachios, and ending inventory on a monthly basis. This final rule will remove the requirement to report inventory adjustments to split and shelled pistachios, as the committee believes that this information is no longer needed. This final rule will also require handlers to report their export shipments. Export data was previously collected by the CPC and provided by some handlers voluntarily to the committee.

On the new form, ACP Form 8, "Producer Delivery Report," handlers will be required to annually provide the names of the producers who deliver pistachios to them, the producers' mailing addresses and other contact information (telephone and facsimile numbers and e-mail addresses), the producers' employer identification numbers, total receipts of pistachios from each producer, and the counties in which the pistachios were grown. These reports will allow the committee to identify all authorized voters for committee selections and referenda in which each business entity is entitled to cast one vote. Individual producers may produce and deliver pistachios under more than one business entity. The information collected on this report will also allow the committee to determine whether individual producers are eligible to represent more than one business entity, based upon Federal Tax Identification numbers.

The information on producer deliveries will also allow the committee to track deliveries to handlers and verify that handlers pay the appropriate assessments on pistachios they receive. This information will also streamline handler audits for committee staff.

Pursuant to § 983.147(c), handlers who handle less than 5,000 pounds annually will be exempt from filing ACP Form 8. These small handlers tend to be producers who handle their own production only and are known to the committee in their producer, as well as their handler, capacity. Therefore, the committee already has business entity, production, and contact information on the producers that are also exempt handlers.

Such information will provide the committee with production and producer data to enhance the administration of the order. An electronic version of the form will be

available to those handlers who file electronically.

Since the addition of ACP Form 8 will require changes to the order's rules and regulations, § 983.147 will be modified to add a new paragraph (g), and to redesignate current paragraphs (g) and (h) as paragraphs (h) and (i).

#### **Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 740 producers in the production area and approximately 50 handlers of California pistachios subject to regulation under the order. The Small Business Administration (SBA) (13 CFR 121.201) defines small agricultural producers as those having annual receipts less than \$750,000, and defines small agricultural service firms as those whose annual receipts are less than \$6,500,000. Of the 740 producers, approximately 722 have annual receipts of less than \$750,000. Forty-two of the 50 handlers subject to regulation have annual pistachio receipts of less than \$6,500,000. Thus, the majority of producers and handlers of California pistachios may be classified as small entities.

This final rule will change § 983.147 of the order's regulations, and revise a currently-approved information collection. The committee determined that production data the CPC previously collected and made available to the committee was still necessary for the efficient operation of the program. Therefore, the committee agreed that it should require handlers to report production and shipment data directly to the committee. In order to receive this data, the committee unanimously recommended that current ACP Form 7, "Monthly Report of Inventory/Shipments," be revised and that a new form, ACP Form 8, "Producer Delivery Report," be developed. Authority for these changes is provided in § 983.47.

On April 2, 2007, the committee deliberated on the value of revising the current form and requiring the new form, and discussed alternatives. It

determined that the only alternative would be to not collect such industry data. However, the order requires the committee to prepare an annual marketing policy statement. Several elements are required for an acceptable marketing policy statement: Production, harvesting, processing, and storage conditions data. The committee is also required to hold annual nominations for seats on the committee, and USDA is required to conduct periodic continuance referenda. Thus, the committee needs this data to fulfill order requirements. The revised ACP Form 7 and the new ACP Form 8 have been approved by the Office of Management and Budget (OMB) under OMB No. 0581-0215, "Pistachios Grown in California."

As with other marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

This final rule will impose additional reporting and recordkeeping burdens on handlers. However, any additional burden is expected to be offset by the efficient operation of the order. Handlers will continue to file the ACP Form 7 monthly and will file the ACP Form 8 annually, but the data collected will serve multiple purposes and streamline committee operations. In addition, 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.

Further, the committee's meeting was widely publicized throughout the pistachio industry and all interested persons were encouraged to attend the meeting and participate in the committee's deliberations. Like all committee meetings, the April 2, 2007, meeting was a public meeting, and entities of all sizes were encouraged to express their views on these issues.

A proposed rule was published in the **Federal Register** on September 7, 2007 (72 FR 173). Copies of the proposed rule were mailed or sent via facsimile to all committee members and handlers. Finally, the proposed rule was made available through the Internet, USDA and the Office of the Federal Register. A 60-day comment period ending November 6, 2007, was provided to allow interested persons to respond to

the proposal. One opposing comment was received.

The commenter was opposed to the committee collecting and disseminating monthly export shipment and inventory data from handlers. According to the commenter, this data, when collected by the CPC in the past, proved valuable in evaluating market conditions and measuring the effectiveness of marketing efforts by the industry. However, the commenter stated that the export data is no longer necessary because the Federal order only regulates domestically shipped product and not exports. The commenter also expressed concern with the accuracy of the inventory data, and contends that such discrepancies are deliberate or accidental errors in the reporting to the committee. The commenter stated a preference for standardized inventory reporting practices because there are no standards for determining inventory levels. The commenter argues that, without set procedures, handlers could easily manipulate their reported inventory to seek competitive advantage in the marketplace.

Regarding the concerns about export shipments, the order provides authority for the collection of information from handlers, which includes shipment data. The committee believes that this information is valuable to the industry, and unanimously voted to collect this information under the Federal order.

Regarding the concerns about the accuracy of the monthly inventory data, the ACP-7 requires handlers to report an "inventory adjustment" figure, which is an adjustment to inventory due to issues including splitting, shelling, shrink, and loss of product. According to committee staff, there is variability in the way handlers store and manage their pistachios, which creates differences in how handlers report inventory adjustments. The committee is exploring ways to improve the accuracy of this information.

Accordingly, no changes will be made to this rule based on the comment 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/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.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee 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.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the data required through this rule is no longer available from the CPC, and the committee needs this information to ensure proper administration of the Federal order. Further, handlers are aware of this rule, which was unanimously recommended by the committee at a public meeting. Also, a 60-day comment period was provided for the proposed rule.

#### List of Subjects in 7 CFR Part 983

Pistachios, Marketing agreements and orders, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

#### PART 983—PISTACHIOS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

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

■ 2. In § 983.147, current paragraphs (g) and (h) are redesignated as paragraphs (h) and (i), and a new paragraph (g) is added to read as follows:

#### § 983.147 Reports.

\* \* \* \* \*

(g) *ACP-8, Producer Delivery Report.* Each handler of pistachios shall file this report with the committee by the 15th day of December of each production year: *Provided*, That for the 2007-08 production year, handlers must file this report with the committee by April 17, 2008, to report his/her receipts of pistachios during the current production year, the names of the handlers' producing entities, business type, and the following information concerning each producing entity: Federal Tax Identification number; mailing and e-mail address; telephone and fax number; total bearing acres; county of production; and for the current production year, the total receipts of open inshell, closed shell, shelling stock of each producing entity; and total pounds of processed pistachios produced by each producing entity.

\* \* \* \* \*

Dated: April 2, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08-1109 Filed 4-3-08; 1:02 pm]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2008-0392; Directorate Identifier 2008-CE-022-AD; Amendment 39-15451; AD 2008-07-10]

2120-AA64

#### Airworthiness Directives; Hawker Beechcraft Corporation Models B200, B200GT, B300, and B300C Airplanes

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation (HBC) Models B200, B200GT, B300, and B300C airplanes. This AD requires you to fabricate and install a placard incorporating information that limits operation when there is known or forecast icing and requires you to replace a section of the pneumatic supply tube for the tail deice system with a new tube of a different material. This AD results from reports of collapsed tail deice boot pneumatic supply tubes. We are issuing this AD to prevent collapsed pneumatic supply tubes, which could result in failure of the tail deice boots to operate. This failure could lead to loss of control in icing conditions.

**DATES:** This AD becomes effective on April 10, 2008.

On April 10, 2008 the Director of the **Federal Register** approved the incorporation by reference of certain publications listed in this AD.

We must receive any comments on this AD by June 6, 2008.

**ADDRESSES:** Use one of the following addresses to comment on this AD.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-

30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Hawker Beechcraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085; telephone: (800) 429-5372 or (316) 676-3140.

To view the comments to this AD, go to <http://www.regulations.gov>. The docket number is FAA-2008-0392; Directorate Identifier 2008-CE-022-AD.

**FOR FURTHER INFORMATION CONTACT:** Don Ristow, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4120; fax: (316) 946-4107.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We received information of reports of collapsed pneumatic tubes, which supply pressure and vacuum to the horizontal stabilizer deice boots. With the introduction of an improved environmental control system, a section of the pneumatic deice tube located in the aft evaporator bay is subject to higher than normal temperature. This high heat in the aft evaporator bay may cause the tubing to soften and collapse undetected and permanently block flow to and from the deice boots.

The pilot's operating handbook specifies to visually check deicing boots, where possible, for inflation and hold down function when ice protection equipment is required. However, the tail deice boots are not visible from the cockpit during the check.

Since the collapse of the pneumatic deice supply tube is caused by the use of cabin heat, there is the possibility that the condition could occur after pre-flight verification of operation. Icing conditions and the use of cabin heat would be a normal operational mode.

In February 2008, HBC issued a safety communique to inform flight crews of the potential for collapsed pneumatic supply tubes and recommended flight crews avoid flight into icing conditions.

This condition, if not corrected, could result in failure of the tail deice boots to operate. This failure could lead to loss of control in icing conditions.

##### Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin SB 30-3889, Issued: March 2008. The service information describes procedures for replacement of tail deice boot pneumatic supply tubes.

#### FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires you to fabricate and install a placard incorporating information that limits operation when there is known or forecast icing and requires you to replace a section of the pneumatic supply tube for the tail deice system with a new tube of a different material. The replacement of the tail deice boot pneumatic supply tubes is terminating action for the operation limitations in known or forecast icing.

In preparing this rule, we contacted type clubs and aircraft operators to get technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included a discussion of any information that may have influenced this action in the rulemaking docket.

#### FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because this condition could result in failure of the tail deice boots to operate. This failure could lead to loss of control in icing conditions. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

#### Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA-2008-0392; Directorate Identifier 2008-CE-022-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://>