employee(s) conducting the review. This charge applies only to requesters who are seeking documents for commercial use, and only to the review necessary at the initial administrative level to determine the applicability of any relevant FOIA exemptions, and not at the administrative appeal level of an exemption already applied.

(4) *Duplication of records.* Twenty-five cents per page for paper copy reproduction of documents, which the Authority, the General Counsel, the Panel and the IG determined is the reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the reproduction machinery. For copies of records prepared by computer, such as tapes or printouts, the Authority, the General Counsel, the Panel or the IG shall charge the actual cost, including operator time, of production of the tape or printout.

(5) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(e) *Aggregating requests.* When the Authority, the General Counsel, the Panel or the IG reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Authority, the General Counsel, the Panel or the IG will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the 30th day following the billing date. Receipt of a fee by the Authority, the General Counsel, the Panel or the IG, whether processed or not, will stay the accrual of interest.

(g) *Advanced payments.* The Authority, the General Counsel, the Panel or the IG will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Authority, the General Counsel, the Panel or the IG estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then the Authority, the General Counsel, the Panel or the IG will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), in which case the Authority, the General Counsel, the Panel or the IG requires the requester to pay the full amount owed plus any applicable interest as provided in this section or demonstrate that the requester has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the Authority, the General Counsel, the Panel or the IG acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.*, 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel, the Panel or the IG has received fee payments described in this section.

(h) When a person other than a party to a proceeding before the agency makes a request for a copy of a transcript, diskette, or other recordation of the proceeding, the Authority, the General Counsel, the Panel or the IG, as appropriate, will handle the request under this part.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

§ 2411.14 Record retention and preservation.

The Authority, the General Counsel, the Panel, and the IG shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until such time as disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 2411.15 Annual report.

On or before February 1 annually, the Chief FOIA Officer of the Authority shall submit a report of the activities of the Authority, the General Counsel, the Panel, and the IG with regard to public information requests during the preceding fiscal year to the Attorney General of the United States. The report shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically.

Dated: September 25, 2009.

Carol Waller Pope,

Chairman.

[FR Doc. E9–23553 Filed 9–30–09; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Doc. No. AMS–FV–08–0045; FV08–981–2 FIR]

Almonds Grown in California; Revision of Outgoing Quality Control Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim final rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim final rule that revised the outgoing quality control regulations issued under the California almond marketing order (order). The interim final rule revised the term ''validation'' under the *Salmonella* bacteria (*Salmonella*) treatment program by specifying that validation data must be both submitted to and accepted by the Almond Board of California's (Board) Technical Expert Review Panel (TERP) for all treatment equipment prior to its use under this program. The interim final rule was necessary to ensure that all treatment equipment meets a 4-log reduction of *Salmonella* in almonds.

DATES: *Effective Date:* Effective October 2, 2009.

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@ams.usda.gov,* or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*; or 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@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This 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.

The order is administered locally by the Board. Under the order, handlers are required to treat shipments of almonds to reduce the potential for *Salmonella* contamination, with limited exceptions. Various equipment systems must be in place and must be ''validated'' by the Board's TERP to ensure that treatments meet a required 4-log reduction of *Salmonella* in almonds destined for consumers in the United States, Canada, and Mexico. The TERP consists of four scientists, with a representative from the Food and Drug Administration serving as an ex-officio member.

In an interim final rule published in the **Federal Register** on June 18, 2009, and effective on June 19, 2009 (74 FR 28872, Doc. No. AMS–FV–08–0045; FV08–981–2 IFR), § 981.442 was amended by specifying that validation means that the treatment technology and equipment have been demonstrated to achieve in total a minimum 4-log reduction of *Salmonella* bacteria in almonds. Validation data must be both submitted to and accepted by the TERP for each piece of equipment used to treat almonds prior to its use under the program. Prior to the change, the regulation did not specify that validation data must be both submitted to and accepted by the TERP for each piece of equipment prior to its use under the program.

Final 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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 6,200 producers of almonds in the production area and approximately 100 handlers subject to regulation under the marketing order. Additionally, the Board estimates there are about 15 process authorities and 30 almond manufacturers under the *Salmonella* treatment program. 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 $7,000,000.

Data for the most recently-completed crop year indicate that about 50 percent of the handlers shipped under $7,000,000 worth of almonds. Dividing average almond crop value for 2006–07 reported by the National Agricultural Statistics Service of $2.258 billion by the number of producers (6,200) yields an average annual producer revenue estimate of about $364,190. Based on the foregoing, about half of the handlers and a majority of almond producers may be classified as small entities. While data regarding the size of the process authorities and almond manufacturers is not available, it may be assumed that some process authorities and manufacturers may be classified as small entities.

This rule continues in effect the action that revised § 981.442(b)(3)(i) of the order's administrative rules and regulations specifying that the term ''validation'' under the *Salmonella* treatment program means that validation data must be both submitted to and accepted by the TERP for each piece of treatment equipment prior to its use under the program. This revision will help ensure that all treatment equipment meets the program's 4-log requirement prior to its use. Authority for this action is provided in § 981.42(b) of the order.

Regarding the overall impact of this action on the affected entities, it is expected to be minimal. Validation data had previously been submitted to the Board's TERP for review. This interim final rule simply specified that such data must be accepted by the TERP for all treatment equipment prior to its use under the program.

The Board's Food Quality and Safety Committee (committee) met prior to the board meeting to consider this change. The committee considered the alternative to this action, which maintained the status quo whereby equipment could be used under the program that had completed validation testing, but had not been accepted by the TERP. The committee, and subsequently the Board, concluded that acceptance by the TERP was important in order to help ensure that all treatment equipment consistently meets the 4-log requirement of the program.

The Board, with the expertise of various committees and subcommittees, makes recommendations regarding the revisions to the marketing order rules and regulations after consideration of all available information, including comments received by Board staff. At the meetings, the impact of and alternatives to these recommendations are deliberated. The Board and its committees and subcommittees consist of individual producers and handlers with many years of experience in the industry, who are familiar with industry practices and trends. All Board, committee, and subcommittee meetings are open to the public and comments are widely solicited. In addition, minutes of all meetings are distributed to Board, committee, and subcommittee members and others who have requested them, and are also posted on the board's Web site, thereby increasing the availability of this critical information within the industry.

This rule will not impose any additional reporting and recordkeeping requirements on California almonds handlers, process authorities, or almond manufacturers. 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the subcommittee, committee, and Board meetings where this issue was discussed were widely publicized throughout the California almond industry, and all interested persons were encouraged to attend the meetings and participate in deliberations on all issues. The issue was discussed at two Food Quality and Safety Committee meetings in April 2008 and at two Board meetings, one in April and one in May 2008. All of these meetings were public meetings, and all entities, both large and small, were able to express views on this issue.

Comments on the interim final rule were required to be received on or before August 17, 2009. No comments were received. Therefore, for the reasons given in the interim final rule, we are

adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to *http://www.regulations.gov/search/Regs/home.html#documentDetail?R=09000064809d2903*.

This action also affirms information contained in the interim final rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 28872, June 18, 2009) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

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

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule that amended 7 CFR part 981 and that was published at 74 FR 28872, on June 18, 2009, is adopted as a final rule, without change.

Dated: September 25, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–23648 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0521; Directorate Identifier 2008–NM–187–AD; Amendment 39–16034; AD 2009–20–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes Equipped With a Digital Transient Suppression Device (DTSD) Installed in Accordance With Supplemental Type Certificate (STC) ST00127BO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–300, –400, and –500 series airplanes. This AD requires revising the maintenance program to include new fuel system limitations for airplanes modified in accordance with STC ST00127BO. This AD also requires inspections and checks of the DTSDs and corrective actions, if necessary. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent a potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank fire or explosion and consequent loss of the airplane.

DATES: This AD is effective November 5, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 5, 2009.

ADDRESSES: For service information identified in this AD, contact Goodrich Corporation, Fuel and Utility Systems, 100 Panton Road, Vergennes, Vermont 05491–1008; telephone 802–877–4476; e-mail *lgd.TechPubs.Oakville@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marc Ronell, Aerospace Engineer, ANE–150, FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7776; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 737–300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on June 9, 2009 (74 FR 27254). That NPRM proposed to require revising the maintenance program to include new fuel system limitations for airplanes modified in accordance with Supplemental Type Certificate (STC) ST00127BO. That NPRM also proposed to require inspections and checks of the digital transient suppression devices and corrective actions, if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Boeing supports the NPRM.

Actions Since NPRM was Issued

Since we issued the NPRM, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

> No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the maintenance program. But once the CDCCLs are incorporated into the maintenance program, future maintenance actions on components must be done in accordance with those CDCCLs.

We have added Note 2 to this AD to clarify the intended effect of the AD on spare and on-airplane fuel tank system components.

Conclusion

We reviewed the relevant data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously. We also determined that this change will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 12 airplanes of U.S. registry. The following table provides the estimated costs for