

# Proposed Rules

Federal Register

Vol. 89, No. 206

Thursday, October 24, 2024

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 927

[Doc. No. AMS–SC–24–0045]

#### Pears Grown in Oregon and Washington; Increased Assessment Rate for Fresh Pears

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rulemaking would implement a recommendation from the Fresh Pear Committee (Committee) to increase the assessment rate established for the 2024–2025 and subsequent fiscal periods from \$0.468 to \$0.516 per 44-pound standard box or equivalent for fresh “summer/fall” pears and fresh “winter” pears grown in Oregon and Washington. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by November 25, 2024.

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

be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Joshua R. Wilde, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: [Joshua.R.Wilde@usda.gov](mailto:Joshua.R.Wilde@usda.gov) or [Barry.Broadbent@usda.gov](mailto:Barry.Broadbent@usda.gov).

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

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rulemaking is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927 (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of growers and handlers of pears operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this proposed rulemaking in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 supplements and reaffirms Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This proposed action falls within a category of regulatory actions

that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

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

This proposed rulemaking has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, Oregon and Washington pear handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable Oregon and Washington fresh pears for the 2024–2025 fiscal period, and continue until amended, suspended, or terminated.

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 rulemaking would increase the assessment rate for Oregon and Washington fresh “summer/fall” pears and “winter” pears handled under the Order from \$0.468 per 44-pound standard box or equivalent, the rate that was established for the 2021–2022 and subsequent fiscal periods, to \$0.516 per

44-pound standard box or equivalent for the 2024–2025 and subsequent fiscal periods.

Sections 927.40 and 927.41 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2021–2022 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.468 per 44-pound standard box or equivalent of assessable fresh “summer/fall” pears and “winter” pears within the production area. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on May 29, 2024, and recommended, with a vote of 10 in favor, with 1 opposed, and 1 abstention, 2024–2025 fiscal period expenditures of \$8,167,642 and an assessment rate of \$0.516 per 44-pound standard box or equivalent of fresh “summer/fall” and “winter” pears for the 2024–2025 fiscal period. In comparison, last year's budgeted expenditures were \$8,364,570. The member voting in opposition does not support any increase to the assessment rate. The member who abstained did not provide a justification. The proposed assessment rate of \$0.516 per 44-pound standard box or equivalent is \$0.048 higher than the rate currently in effect. The Committee recommended increasing the assessment rate due to a smaller estimated 2024 crop and to provide adequate income to cover the Committee's budgeted expenses for the 2024–2025 fiscal period without needing to draw from the Committee's financial reserves. The Committee projects handler receipts of 16,000,000 44-pound standard boxes or equivalent of assessable fresh pears for the 2024–2025 fiscal period, down from the approximately 18,000,000 44-pound standard boxes or equivalent that the Committee initially projected for the 2023–2024 fiscal period.

The major expenditures recommended by the Committee for the 2024–2025 fiscal period include \$6,928,000 for promotion and paid

advertising, \$621,148 for production research and market development, \$435,321 for contracted administration and Committee expenses, and \$183,173 for industry development. For comparison, budgeted expenses for these items during the 2023–2024 fiscal period were \$6,930,000, \$843,373, \$415,238, and \$175,959, respectively.

The Committee derived the recommended assessment rate by considering anticipated expenses, the estimated volume of assessable fresh pears, and the amount of funds available in the authorized reserve. The expected 16,000,000 44-pound standard boxes or equivalent of assessable fresh “summer/fall” and “winter” pears would generate \$8,256,000 in assessment revenue at the proposed assessment rate (16,000,000 44-pound standard boxes or equivalent multiplied by the \$0.516 assessment rate). The income generated from handler assessments, along with \$3,000 expected in interest income, should be sufficient to meet the Committee's estimated program expenditures of \$8,167,642 without needing to draw from the Committee's financial reserves. Funds available in the financial reserve (currently about \$716,365) would be kept within the maximum permitted by the Order (approximately one fiscal period's expenses as authorized in § 927.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2024–2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

#### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered

the economic impact of this proposed rulemaking on small entities.

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order 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 27 handlers subject to regulation under the Order and approximately 700 growers of fresh pears in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts of less than \$34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of fresh pears as those having annual receipts of less than \$3,500,000 (NAICS code 111339, Other Noncitrus Fruit Farming) (13 CFR 121.201).

Data from USDA's National Agricultural Statistics Service (NASS), indicate a three-year average grower price for Oregon and Washington fresh pears of approximately \$11.92 per 44-pound standard box or equivalent for the most recent seasons for which data is available (2020–2021 through 2022–2023 fiscal periods). Committee records indicate average annual fresh pear shipments of 15,246,095 44-pound standard boxes or equivalent over the same period. Based on these data, the average total annual value of assessable fresh pears over this period would have been approximately \$181,733,452 (15,246,095 44-pound standard boxes or equivalent multiplied by \$11.92 per box). Dividing that figure by the number of fresh pear growers (700) yields an average annual crop value per grower of approximately \$259,619. This figure is well below the SBA small agricultural producer threshold of \$3,500,000 in annual sales. Assuming a normal distribution, this provides evidence that a large majority of pear growers would likely be considered small agricultural producers according to the SBA definition.

According to USDA Market News data, the most recent shipping point price for fresh pears out of the Yakima Valley and Wenatchee District ranged between \$36.25 and \$45.05 per 44-pound standard box or equivalent. Using this data to assume an average shipping point price of \$40.65 for all

Oregon and Washington fresh pears yields a total crop value of approximately \$619,753,762 (15,246,095 44-pound standard boxes multiplied by \$40.65 per box). Dividing this figure by 27 regulated handlers yields estimated average annual handler receipts of approximately \$22,953,843. Therefore, according to the above data, the majority of growers and handlers of Oregon and Washington fresh pears may be classified as small entities.

As noted above, the average price received by growers in the previous three crop years was \$11.92 per 44-pound standard box or equivalent of assessable fresh “summer/fall” pears and “winter” pears. Given the Committee-estimated production of 16,000,000 44-pound standard boxes or equivalent of assessable fresh pears for the 2024–2025 crop year, total grower revenue is estimated to be \$190,720,000. Total assessment revenue is expected to be \$8,256,000 (16,000,000 boxes multiplied by \$0.516 per box). Therefore, estimated assessment revenue as a percentage of total grower revenue would be about 4.3 percent (\$8,256,000 divided by \$190,720,000 multiplied by 100).

This proposal would increase the assessment rate collected from handlers for the 2024–2025 and subsequent fiscal periods from \$0.468 to \$0.516 per 44-pound standard box or equivalent of fresh “summer/fall” and “winter” pears. The Committee recommended 2024–2025 fiscal period expenditures of \$8,167,642 and an assessment rate of \$0.516 per 44-pound standard box or equivalent of assessable fresh “summer/fall” and “winter” pears handled. The proposed assessment rate of \$0.516 is \$0.048 higher than the rate currently in effect. The Committee expects the industry to handle 16,000,000 44-pound standard boxes or equivalent of assessable fresh “summer/fall” pears and “winter” pears during the 2024–2025 fiscal period. Thus, the \$0.516 per 44-pound standard box or equivalent assessment rate should provide \$8,256,000 in assessment income (16,000,000 44-pound standard boxes or equivalent multiplied by the \$0.516 assessment rate). The income generated from handler assessments, along with \$3,000 expected in interest income, should be sufficient to meet budgeted expenditures for the 2024–2025 fiscal period.

The major expenditures recommended by the Committee for the 2024–2025 fiscal period include \$6,928,000 for promotion and paid advertising, \$621,148 for production research and market development, \$435,321 for contracted administration

and Committee expenses, and \$183,173 for industry development. For comparison, budgeted expenses for these items during the 2023–2024 fiscal period were \$6,930,000, \$843,373, \$415,238, and \$175,959, respectively.

The Committee recommended increasing the assessment rate to provide adequate income to cover the Committee’s budgeted expenses for the 2024–2025 fiscal period without needing to draw from the Committee’s financial reserves. The Committee projects handler receipts of 16,000,000 44-pound standard boxes or equivalent of assessable fresh pears for the 2024–2025 fiscal period, down from the estimated 18,000,000 44-pound standard boxes or equivalent that the Committee initially projected for the 2023–2024 fiscal period.

Prior to arriving at this budget and assessment rate recommendation, the Committee discussed various alternatives, including maintaining the current assessment rate of \$0.468 per 44-pound standard box or equivalent of assessable fresh pears and increasing the assessment rate by a different amount. However, the Committee determined that the recommended assessment rate would adequately fund budgeted expenses for the 2024–2025 fiscal period without needing to draw from the Committee’s financial reserves. Consequently, those alternatives were rejected.

This proposed action would increase the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to growers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee’s meetings are widely publicized throughout the Oregon and Washington pear industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the May 29, 2024, 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 comments on this proposed rulemaking, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the Order’s information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189, Fruit Crops. No changes in those requirements would be necessary as a result of this proposed rulemaking.

Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rulemaking would not impose any additional reporting or recordkeeping requirements on either small or large Oregon and Washington pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this proposed rulemaking is consistent with and would effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rulemaking. All written comments timely received will be considered before a final determination is made on this rulemaking.

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

Marketing agreements, Pears, Reporting and recordkeeping requirements.

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

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

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

**Authority:** 7 U.S.C. 601–674.

■ 2. Amend § 927.236 by revising the introductory text and paragraphs (a) and (b) to read as follows:

**§ 927.236 Fresh pear assessment rate.**

On and after July 1, 2024, the following base rates of assessment for fresh pears are established for the Fresh Pear Committee:

(a) \$0.516 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as “summer/fall”;

(b) \$0.516 per 44-pound net weight standard box or container equivalent for any or all varieties or subvarieties of fresh pears classified as “winter”;

\* \* \* \* \*

**Erin Morris,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2024-24773 Filed 10-23-24; 8:45 am]

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**SMALL BUSINESS ADMINISTRATION**
**13 CFR Part 120**

**RIN 3245-AI21**

**ALP Express Pilot to Permanent Status**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The U.S. Small Business Administration (“SBA” or Agency) is proposing to make permanent the increased delegated authorities made available under the ALP Express Pilot for Certified Development Companies (“CDCs”) approved for the Accredited Lenders Program (“ALP”). These increased delegated authorities for 504 loans of \$500,000 or less (“ALP Express authority”) were authorized under the Economic Aid to Hard-hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act or EAA). When these increased delegated authorities expired on September 30, 2023, SBA implemented the ALP Express Pilot in October 2023 to allow SBA to further evaluate the improved customer service levels for SBA Borrowers and the use of these increased delegated authorities by ALP CDCs. The ALP Express Pilot expires on September 30, 2025. SBA is proposing rules to make the pilot permanent and is seeking public comment to help the Agency identify which parts of the pilot have been successful and which may need further modification. SBA notified Congress of the pilot prior to OMB approval and notified Congress of the intent to convert the pilot to become a permanent part of the 504 Loan Program in September 2024.

**DATES:** SBA must receive comments on this proposed rule on or before November 25, 2024.

**ADDRESSES:** You may submit comments, identified by SBA docket number Docket No. SBA-2023-0012, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/>. Follow the instructions for submitting comments.
- **Mail:** Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Suite 8300, Washington, DC 20416.

- **Hand Delivery/Courier:** Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

SBA will post all comments on <https://www.regulations.gov/>.

If you wish to submit confidential business information (“CBI”) as defined in the User Notice at <https://www.regulations.gov/>, please submit the information to Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Suite 8300, Washington, DC 20416; or send an email to [gregorius.suryadi@sba.gov](mailto:gregorius.suryadi@sba.gov). Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination as to whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** Gregorius Suryadi, Office of Financial Assistance, U.S. Small Business Administration at (202) 205-6806 or [gregorius.suryadi@sba.gov](mailto:gregorius.suryadi@sba.gov). The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission’s TTY-Based Telecommunications Relay Service teletype service at 711.

**SUPPLEMENTARY INFORMATION:**

**1. Background Information**

The 504 Loan Program is an SBA financing program authorized under title V of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 695 et seq (“Small Business Investment Act”). The core mission of the 504 Loan Program is to provide long-term financing to small businesses for the purchase or improvement of land, buildings, and major equipment, and to facilitate the creation or retention of jobs and local economic development. Under the 504 Loan Program, loans are made

to small business applicants by Certified Development Companies (“CDCs”), which are certified and regulated by SBA to promote economic development within their community. In general, a project in the 504 Loan Program (a “504 Project”) includes: a loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC (a “504 Loan”) with a junior lien covering up to 40 percent of the total cost (backed by a 100 percent SBA guaranteed debenture); and a contribution from the Borrower of at least ten percent equity.

There are three types of CDCs that participate in the 504 Loan Program. This document relates to the temporary increased delegated authority that was granted, in accordance with section 328(b) of the Economic Aid Act (“EAA”), to CDCs that are approved by SBA to participate in the Accredited Lenders Program (hereafter “ALP CDCs”), which is authorized under section 507(a) of the Small Business Investment Act. Under section 507(c) of the Small Business Investment Act, SBA is authorized to develop an expedited procedure for processing a loan application or servicing action submitted by ALP CDCs. [15 U.S.C. 697d.]

Prior to the Economic Aid Act, ALP CDCs were required to obtain SBA’s approval on both the loan’s eligibility and creditworthiness determinations. In addition, ALP CDCs only had delegated authority to make certain “No Adverse Change” certifications prior to loan closing without SBA’s review and approval and were only authorized to close 504 loans under the expedited loan closing procedures applicable to a Priority CDC. Further, ALP CDCs were required to obtain SBA’s approval for most servicing actions. Section 328(b) of the EAA temporarily provided ALP CDCs increased delegated authority to “approve, authorize, close and service covered loans,” for loans of not more than \$500,000 and that are not made to a borrower in an industry with a high rate of default as defined by SBA (hereafter referred to as “ALP Express Loans”). SBA implemented these increased delegated authorities with the publication of an interim final rule on June 27, 2022. (87 FR 37979). Pursuant to the EAA, these delegated authorities were to expire on September 30, 2023.

In order to evaluate the use of these increased delegated authorities by ALP CDCs and to identify opportunities for further modification, SBA developed the ALP Express Pilot program to provide these increased delegated authorities through September 30, 2025