

# Rules and Regulations

Federal Register

Vol. 60, No. 114

Wednesday, June 14, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 971

[Docket No. FV95-971-1FR]

#### Termination of Marketing Order 971; Lettuce Grown in the Lower Rio Grande Valley in South Texas

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

**ACTION:** Termination order.

**SUMMARY:** This action terminates the Federal marketing order for lettuce grown in the Lower Rio Grande Valley in South Texas (order) and the rules and regulations issued thereunder. The Secretary of Agriculture (Secretary) has determined that the order no longer tends to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937 (Act). In recent years, this industry has declined significantly in numbers of producers and handlers. In 1980, there were 42 producers and 11 handlers. In 1992, there were three producers and one handler. All known commercial production and handling of South Texas lettuce has ceased since 1992 and there are no indications that the industry will be revived.

**EFFECTIVE DATE:** July 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jim Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-2170, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas, 78501, telephone 210-682-2833.

**SUPPLEMENTARY INFORMATION:** This action is governed by the provisions of section 8c(16)(A) of 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 action in conformance with Executive Order 12866.

This termination order has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This termination order 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 a principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 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.

In recent years, this industry has declined significantly in numbers of producers and handlers. During the first year the order was in effect, there were 68 producers and 31 handlers. In 1980, there were 42 producers and 11 handlers. In 1992, there were three

producers and one handler. All known commercial production and handling of South Texas lettuce has since ceased. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) 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. The majority of the former South Texas lettuce producers and handlers had been classified as small entities.

The South Texas Lettuce Committee (committee) met on May 29, 1991, and unanimously recommended that the order's handling regulation that was currently in effect be suspended for the 1991-92 lettuce marketing period. The recommendation was made to eliminate the continued expense of administering the order. The Department issued an interim final rule, which was published in the October 31, 1991, issue of the **Federal Register** (56 FR 55986). The rule suspended the 1991-92 handling regulation in effect under the order and invited public comment through December 2, 1991. No comments were received.

On July 13, 1992, the Department issued a suspension order, which was published in the July 17, 1992, issue of the **Federal Register** (57 FR 31631). The action suspended all of the provisions of and established pursuant to the order from July 17, 1992, through July 17, 1995, because the Secretary determined that the order no longer tended to effectuate the declared policy of the Act. The action also indicated that, during this period, the Department would monitor lettuce production and the number of active producers and handlers in the production area. At the end of that period an evaluation would be made by the Secretary on whether there was a revival in lettuce production and whether to reactivate the order or begin termination proceedings.

As an interim step in this evaluation, in December 1992, the Department conducted a survey of former industry handlers to determine whether they expected a revival of South Texas lettuce production in the next two years, and if not, whether they wanted a refund of excess reserve funds prior to the end of the evaluation period.

The overwhelming consensus of the respondents was that they did not plan to resume lettuce production and the

handlers wanted all but \$3,000 of the reserve fund to be refunded to them as soon as practicable. On February 26, 1993, the Department issued refund checks totaling approximately \$25,000 to handlers based on their pro rata share of assessments paid during the 1988–89 through 1990–91 marketing seasons. The remaining \$3,000 reserve was considered sufficient to cover unforeseen expenses during the period of suspension and to cover necessary expenses of liquidation in the event the marketing order would be terminated.

Commercial production and handling of South Texas lettuce ceased in 1992; there are currently no indications that the industry will be revived. Without a sufficient number of producers and handlers, it is impossible for the Secretary to appoint the required committee or otherwise continue the operation of the order.

Therefore, based on the foregoing considerations, pursuant to section 8c(16)(A) of the Act and § 971.84 of the order, it is found that Marketing Order No. 971, covering lettuce grown in the Lower Rio Grande Valley in South Texas, does not tend to effectuate the declared policy of the Act and is hereby terminated. The trustees appointed by the Secretary shall continue in the capacity of concluding and liquidating the affairs of the former committee, until discharged by the Secretary.

Section 8c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on March 15, 1995.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give additional preliminary notice, or to engage in further procedure with respect to this action, because: (1) This action relieves all restrictions on handlers by terminating the provisions of part 971; (2) in 1992, the Department issued a rule suspending all provisions of the order for two years to allow sufficient time for a possible revival of the lettuce industry before termination of the order; and (3) such commercial lettuce production and handling cease in 1992 and when former industry members were polled, they did not expect a revival of the industry, and the consensus was that the order should be terminated.

#### List of Subjects in 7 CFR Part 971

Lettuce, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 971—[REMOVED]

1. The authority citation for 7 CFR part 971 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Accordingly, 7 CFR part 971 is removed.

Dated: June 6, 1995.

**David R. Shipman,**

*Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.*

[FR Doc. 95–14473 Filed 6–12–95; 8:45 am]

BILLING CODE 3410–02–P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 95–NM–63–AD; Amendment 39–9272; AD 95–12–20]

##### Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection to determine the torque value of all wing slat track stop pins, and correction of discrepancies. This amendment is prompted by a report of a fuel leak that was caused by an incorrectly torqued slat track stop pin that punctured the slat canister. The actions specified in this AD are intended to prevent such fuel leakage conditions, which could result in inadequate fuel for completing a flight and could pose a fire hazard.

**DATES:** Effective June 29, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 29, 1995.

Comments for inclusion in the Rules Docket must be received on or before August 14, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–63–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD 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; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

**SUPPLEMENTARY INFORMATION:** The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that, during preflight refueling of a Model A340–300 airplane, a fuel leak was discovered in slat canister number 11 on the left wing of the airplane. Closer inspection revealed that the two parts of the slat track stop pin assembly at the end of the slat track had become loose and had separated from each other. This caused the length of the pin to increase by more than the width of the canister, thus puncturing the side of the slat canister close to the front of the spar attachment flange. The stop pin was found to be bent and detached from the slat track.

A subsequent visual inspection of the pins at the other slat track positions on both the left and right wings of the incident airplane revealed excess lateral movement. A certain amount of lateral movement of the pins in the slat track is normal (0.2 mm to 0.3 mm, or 0.0079 inch to 0.0118 inch). However, the pins that were inspected indicated lateral movement up to 12 mm (0.472 inch). A torque check of the pins revealed zero torque. No additional damage to the slat canister was found.

The slat track stop pin assembly consists of two parts (male and female), which are installed at the end of each of the slat tracks. Their purpose is to provide a positive stop in case of over-extension of the slats. The torque loading applied during installation of this two-part assembly provides the primary locking feature; a five-point internal circlip ring provides a secondary locking feature. Incorrect installation of these items may have contributed to the pins coming loose on the incident airplane. The installation procedure was corrected on all airplanes delivered after June 15, 1994.

Excessive lateral movement of the stop pins can result in damage to the slat canister during extension or retraction of the slats. Excessive damage to the canister could lead to a running