* * * * *

4. Section 319.56–2aa would be revised to read as follows:

§ 319.56–2aa Administrative instructions governing the entry of cantaloupe, honeydew melons, and watermelon from Brazil and Venezuela.

Cantaloupe, honeydew melons, and watermelon may be imported into the United States from Brazil and Venezuela only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The cantaloupe, honeydew melons, or watermelon must have been grown in the area of Brazil or the area of Venezuela considered by the Animal and Plant Health Inspection Service to be free of the South American cucurbit fly, (*Anastrepha grandis*), in accordance with § 319.56–2(e)(4) of this subpart. In addition, all shipments of cantaloupe, honeydew melons, and watermelon must be accompanied by a phytosanitary certificate issued either by the Departmento de Defesa e Inspeção Vegetal (Brazilian Department of Plant Health and Inspection) or the Servicio Autonomo de Sanidad Agropecuaria (the plant protection service of Venezuela) that includes a declaration indicating that the cantaloupe or melons were grown in an area recognized to be free of the South American cucurbit fly.

(1) *Area considered free of the South American cucurbit fly in Brazil.* The following area in Brazil is considered free of the South American cucurbit fly: That portion of Brazil bounded on the north by the Atlantic Ocean; on the east by the River Assu (Acu) from the Atlantic Ocean to the city of Assu; on the south by Highway BR 304 from the city of Assu (Acu) to Mossoro, and by Farm Road RN–015 from Mossoro to the Ceara State line; and on the west by the Ceara State line to the Atlantic Ocean.

(2) *Area considered free of the South American cucurbit fly in Venezuela.* The following area in Venezuela is considered free of the South American cucurbit fly: The Paraguana Peninsula, located in the State of Falcon, bounded on the north and east by the Caribbean Ocean, on the south by the Gulf of Coro and an imaginary line dividing the autonomous districts of Falcon and Miranda, and on the west by the Gulf of Venezuela.

(b) *Shipping requirements.* The cantaloupe, honeydew melons, and watermelon must be packed in an enclosed container or vehicle, or must be covered by a pest-proof screen or plastic tarpaulin while in transit to the United States.

(c) *Labeling.* All shipments of cantaloupe, honeydew melons, and watermelon must be labeled in accordance with § 319.56–2(g) of this subpart.

5. A new § 319.56–2gg would be added to read as follows:

§ 319.56–2gg Administrative instructions; conditions governing the entry of peppers from Spain.

Peppers (fruit) (*Capsicum* spp.) may be imported into the United States from Spain only under permit, and only in accordance with this section and all other applicable requirements of this subpart:

(a) The peppers must be grown in the Almeria Province of Spain in pest-proof greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(b) The peppers may be shipped only from December 1 through April 30, inclusive;

(c) Beginning October 1, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all outside areas, including urban and residential areas, within 8 kilometers of the greenhouses, MAFF must set and maintain Medfly traps baited with trimedlure at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(d) Capture of a single Medfly in a registered greenhouse will immediately halt exports from that greenhouse until the Deputy Administrator determines that the source of infestation has been identified, that all Medflies have been eradicated, and that measures have been taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increased trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse during a 1-month period will halt exports from all registered greenhouses within 2 kilometers of the capture, until the source of infestation is determined and all Medflies are eradicated;

(e) The peppers must be safeguarded against fruit fly infestation from harvest to export. Such safeguarding includes covering newly harvested peppers with fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packing the peppers in fruit fly-proof cartons, or cartons covered with fruit-fly proof mesh or plastic tarpaulin, and placing those cartons in enclosed shipping containers for transit to the airport and subsequent shipment to the United States;

(f) The peppers must be packed for shipment within 24 hours of harvest;

(g) During shipment, the peppers may not transit other fruit fly-supporting areas unless shipping containers are sealed by MAFF with an official seal whose number is noted on the phytosanitary certificate; and

(h) A phytosanitary certificate issued by MAFF and bearing the declaration, ''These peppers were grown in registered greenhouses in Almeria Province in Spain,'' must accompany the shipment.

Done in Washington, DC, this 2nd day of June, 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–14957 Filed 6–4–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV98–920–2 PR]

Kiwifruit Grown in California; Temporary Suspension of an Inspection Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the temporary suspension of an inspection requirement for kiwifruit covered under the California kiwifruit marketing order. The marketing order regulates the handling of kiwifruit grown in California, and is administered locally by the Kiwifruit Administrative Committee (Committee). Currently, certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect under the marketing order is valid until December 31 of the current fiscal year or 21 days from the date of inspection, whichever is later. Any kiwifruit not shipped before the end of this certification period must be reinspected and recertified before shipping. This rule would temporarily suspend this provision for the 1998–99 fiscal year and would enable handlers to ship kiwifruit without the necessity for reinspection and recertification and the costs associated with such requirements. This temporary

suspension was unanimously recommended by the Committee and is expected to reduce handler costs and to increase grower returns, while continuing to provide consumers with the same high quality fruit as is available under current requirements.

DATES: Comments must be received by July 6, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit 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 (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 proposal invites comments on the temporary suspension of an inspection requirement for kiwifruit covered under the California kiwifruit marketing order. This rule would temporarily suspend the current limitation of the inspection certificate validation period and would enable handlers to ship kiwifruit without the necessity for reinspection and recertification. The rule would be in effect for the 1998–99 fiscal year.

Section 920.55 of the order requires that prior to handling any variety of California kiwifruit, such kiwifruit shall be inspected by the Federal or Federal-State Inspection Service (inspection service) and certified as meeting the applicable grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53. Section 920.55 also provides authority for the establishment through the order's administrative rules and regulations of a period prior to shipment during which inspections must be performed.

Section 920.155 of the order's administrative rules and regulations prescribes that the certification of grade, size, quality, and maturity of kiwifruit pursuant to § 920.52 or § 920.53 during each fiscal year is valid until December 31 of such year or 21 days from the date of inspection, whichever is later. Any inspected kiwifruit to be shipped after the certification period lapses is required to be reinspected and recertified before shipping.

At its meeting on February 11, 1998, the Committee unanimously recommended suspending § 920.155 for the 1998–99 fiscal year. The Committee made this recommendation in an effort to reduce the additional costs of reinspection. In recent years, after cultural and post-harvest expenses have been paid, many kiwifruit growers have lost money or merely recovered their production costs with little or no profit. Because storage and handling operations have improved in the industry, and as a result of a fruit ripening program being utilized by the industry, the Committee believes it may no longer be necessary to have fruit reinspected to provide consumers with a high quality product. The recommended suspension is for a one-year period so the effects can be evaluated. The Committee further recommended that this suspension be in effect no later than September 1, 1998, to enable handlers to make operational decisions in time for the 1998 harvest and shipping season.

When the order was promulgated, authority was included to limit the length of time inspection certificates would be valid. This authority was provided because the condition of kiwifruit can change while it is held in cold storage. The current inspection requirements are intended to help ensure that all fruit meets order requirements prior to shipment.

The industry has estimated that approximately 30 percent of the inspected kiwifruit is subject to reinspection each year at a cost of approximately $0.03 per tray equivalent (a tray equivalent being 7 pounds of kiwifruit), and that a minimal amount, approximately 1 percent, of reinspected fruit fails to meet order requirements.

Although the inspection service has not yet established the 1998–99 inspection rates, based on the past season's rates, total reinspection costs for the industry are expected to be approximately $50,000 for the 1998–99 fiscal year.

Handlers would like to reduce handling costs and believe that they can do so by conducting their own reinspection of fruit before shipment, when necessary. The Committee believes that consumers would be provided with the same high quality fruit as available under current reinspection requirements. Handlers have continually upgraded their cold storage and handling operations, resulting in fewer fruit condition problems. In recent seasons, improved storage facilities have resulted in fewer storage-related condition problems, such as black sooty mold. In addition, processing and packing equipment utilized by handlers has improved in recent years, resulting in less damage to fruit in the handling process, thus resulting in fewer condition problems. Finally, the industry's ripening program has resulted in earlier seasonal shipments and a decreased amount of inspected fruit remaining in cold storage

beyond the maximum time for which an inspection certificate is valid.

The Committee believes that eliminating the reinspection requirement would not have a negative impact on any aspect of the industry; however, it wishes to approach this issue with caution. Thus, the Committee recommended temporarily suspending § 920.155 for the 1998–99 fiscal year as a ''pilot test,'' so it can evaluate the results after the season. The Committee expects this action to reduce handler costs by $50,000, resulting in increased grower returns, while continuing to provide consumers with the same high quality fruit as is available under current reinspection requirements.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 60 handlers of California kiwifruit subject to regulation under the marketing order and approximately 450 producers in the production area. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. One of the 60 handlers subject to regulation has annual kiwifruit sales of at least $5,000,000, excluding receipts from any other sources. The remaining 59 handlers have annual receipts less than $5,000,000, excluding receipts from other sources. In addition, 10 of the 450 producers subject to regulation have annual sales of at least $500,000, excluding receipts from any other sources. The remaining 440 producers have annual sales less than $500,000, excluding receipts from any other sources. Therefore, a majority of handlers and producers are classified as small entities.

This proposal invites comments on the temporary suspension of an inspection requirement for kiwifruit covered under the California kiwifruit marketing order. This rule would temporarily suspend the current limitation of the inspection certificate validation period and would enable handlers to ship kiwifruit without the necessity for reinspection and recertification. The rule would be in effect for the 1998–99 fiscal year.

Section 920.55 of the order requires that prior to handling any variety of California kiwifruit, such kiwifruit shall be inspected by the inspection service and certified as meeting the applicable grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53. Section 920.55 also provides authority for the establishment through the order's administrative rules and regulations of a period prior to shipment during which inspections must be performed.

Section 920.155 of the order's administrative rules and regulations prescribes that the certification of grade, size, quality, and maturity of kiwifruit pursuant to § 920.52 or § 920.53 during each fiscal year is valid until December 31 of such year or 21 days from the date of inspection, whichever is later. Any inspected kiwifruit to be shipped after the certification period lapses is required to be reinspected and recertified before shipping.

At its meeting on February 11, 1998, the Committee unanimously recommended suspending § 920.155 for the 1998–99 fiscal year. The Committee made this recommendation in an effort to reduce the additional costs of reinspection. In recent years, after cultural and post-harvest expenses have been paid, many kiwifruit growers have lost money or merely recovered their production costs with little or no profit. Also, because storage and handling operations have improved in the industry, and as a result of a fruit ripening program being utilized by the industry, the Committee believes it may no longer be necessary to have fruit reinspected to provide consumers with a high quality product. The recommended suspension is for a one-year period so the effects can be evaluated. The Committee further recommended that this suspension be in effect no later than September 1, 1998, to enable handlers to make operational decisions in time for the 1998 harvest and shipping season.

When the order was promulgated, authority was included to limit the length of time inspection certificates would be valid. This authority was provided because the condition of kiwifruit can change while it is held in cold storage. The current inspection requirements are intended to help ensure that all fruit meets order requirements prior to shipment.

The industry has estimated that approximately 30 percent of the inspected kiwifruit is subject to reinspection each year at a cost of approximately $0.03 per tray equivalent (a tray equivalent being 7 pounds of kiwifruit), and that a minimal amount, approximately 1 percent, of reinspected fruit fails to meet order requirements.

Although the inspection service has not yet established the 1998–99 inspection rates, based on the past season's rates, total reinspection costs for the industry are expected to be approximately $50,000 for the 1998–99 fiscal year.

Handlers would like to reduce handling costs and believe that they can do so by conducting their own reinspection of fruit before shipment, when necessary. The Committee believes that consumers would be provided with the same high quality fruit as available under current reinspection requirements. Handlers have continually upgraded their cold storage and handling operations, resulting in fewer fruit condition problems. In recent seasons, improved storage facilities have resulted in fewer storage-related condition problems, such as black sooty mold. In addition, processing and packing equipment utilized by handlers has improved in recent years, resulting in less damage to fruit in the handling process, thus resulting in fewer fruit condition problems. Finally, the industry's ripening program has resulted in earlier seasonal shipments and a decreased amount of inspected fruit remaining in cold storage beyond the maximum time for which an inspection certificate is valid.

The Committee believes that eliminating the reinspection requirement would not have a negative impact on any aspect of the industry; however, it wishes to approach this issue with caution. Thus, the Committee recommended temporarily suspending § 920.155 for the 1998–99 fiscal year as a ''pilot test,'' so it can evaluate the results after the season. The Committee expects this action to reduce handler costs by $50,000, resulting in increased grower returns, while continuing to provide consumers with the same high quality fruit as is available under current reinspection requirements.

The 1998–99 kiwifruit crop is estimated to be 10 to 12 million tray equivalents (a tray equivalent being equal to 7 pounds). Based on recent experience, approximately 30 percent of the inspected kiwifruit is subject to reinspection. At the current estimates

for the 1998–99 crop, that would amount to 3.0 to 3.6 million tray equivalents requiring reinspection. The 1998–99 reinspection fees have not yet been established by the inspection service, however, utilizing the 1997–98 rates ($0.032 per tray/volume fill/count fill container, $0.047 per 3 layer/master container, and $0.0047 per pound for bins), it is estimated that the 1998–99 costs for reinspection would be around $42,000. Adding mileage and overtime fees charged by the inspection service would result in total annual costs for reinspection for the 1998–99 fiscal year of approximately $50,000.

The Committee discussed a number of alternatives to this rule, including making inspection certificates valid to January 31, or modifying the reinspection process by requiring inspection for condition only, but it was determined that neither of these alternatives would reduce reinspection costs. The Committee also discussed the possibility of reducing the sample size from the current one-half of 1 percent; however, the inspection service advised the Committee that further reduction of the sample size would jeopardize the integrity of the inspection.

Another alternative discussed was the elimination of in-line inspections altogether, but this was determined to be unacceptable to the industry. Use of in-line inspection allows handlers to be assured that the fruit is making grade at the time of packing. Any problems that may exist can be identified immediately and corrected, thus avoiding the additional costs of repacking at the time of shipment.

The Committee also considered increasing the use of inspection waivers as a means to lower costs. However, the Committee could not reach a consensus on an acceptable and equitable means to increase the issuance of waivers throughout the industry, and, thus, it was determined to be an unacceptable alternative to this proposal.

As another possibility, the Committee discussed alternative inspection methods. It was decided that they would not be a viable option at this time.

Following discussion of these alternatives, the Committee concluded that temporarily suspending § 920.155 would be in the best interest of the industry at this time, as it is expected to save as much as $50,000 in reinspection fees and to increase grower returns, while continuing to provide consumers with the same high quality fruit as provided under current reinspection requirements.

This action would not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit 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.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's February 11, 1998, meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 11, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Committee itself is composed of 12 members. Two of these members are handlers and producers, 9 are producers only, and one is a public member. The majority of the Committee members are small entities. In addition, a survey on the options of eliminating or keeping the reinspection requirement was mailed to all growers and handlers of California kiwifruit. Of the 485 surveys mailed, 159 were returned to the Committee by the deadline of February 6, 1998, for a response rate of 33 percent. Growers accounted for 77 percent of the total surveys returned by the deadline, and of those, 67 percent were in favor of eliminating reinspection. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A 30-day comment period is provided to allow interested persons to respond to this proposal, including any regulatory and informational impacts of this action on small businesses. Thirty days is deemed appropriate because: (1) The industry would like the changes proposed in this rule to be in place by September 1 to provide sufficient time to plan for the upcoming marketing season; and (2) this action was unanimously recommended by the Committee at a public meeting and is not expected to be controversial. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 920 is proposed to be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 920.155 [Suspended]

2. In Part 920, § 920.155 is suspended in its entirety effective August 1, 1998, through July 31, 1999.

Dated: May 29, 1998.

Sharon Bomer Lauritsen,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–15001 Filed 6–4–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–23–AD]

RIN 2120–AA64

Airworthiness Directives; Aviat Aircraft, Inc. Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise Airworthiness Directive (AD) 96–12–03 R1, which applies to Aviat Aircraft, Inc. (Aviat) Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes that are equipped with aft lower fuselage wing attach fittings incorporating part number (P/N) 76090, P/N 2–2107–1, or P/N 1–210–102. That AD currently requires repetitively inspecting the aft lower fuselage wing attach fitting on both wings for cracks, and modifying any cracked aft lower fuselage wing attach fitting. Modifying both aft lower fuselage wing attach fittings eliminates the repetitive inspection requirement of AD 96–12–03. Aviat started incorporating modified aft lower fuselage wing attach fittings on newly manufactured airplanes beginning with serial number 5337, instead of 5349 as referenced in the existing AD. This proposed AD would retain the repetitive inspection and possible modification requirements of AD 96–12–03 R1, and would change the applicability accordingly. The actions specified by the proposed AD are intended to prevent possible in-flight separation of the wing from the airplane caused by a cracked fuselage wing attach fitting.