

However, after considerable discussion, the Board concluded it should reduce handlers' assessment costs and that the reserve should not exceed one-half year's budget amount. Further, the amount budgeted for Board compliance costs has been reduced. The Board discussed the alternative of continuing the existing assessment rates, but concluded that would cause the amount in the operating reserve to exceed what is actually needed.

After the discussion, the Board voted unanimously to decrease the assessment rates.

In deriving the recommended assessment rates, the Board estimated assessable tart cherry production for the crop year at 260 million pounds. It further estimated that about 204.5 million pounds of the assessable poundage would be utilized in the production of high-valued products, like frozen, canned, or dried cherries, and that about 55.5 million pounds would be utilized in the production of low-valued products, like juice, juice concentrate, or puree. Potential assessment income from the high valued products would be approximately \$460,125 (204.5 million pounds × \$0.00225 per pound). Potential income from tart cherries utilized for juice, juice concentrate, or puree would be \$62,500 (55.5 million pounds × \$0.001125 per pound). Therefore, total assessment income for 1999–2000 is estimated at \$522,625, which will be adequate to cover expenses. Funds in the reserve (currently \$225,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 930.42(a)).

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, the assessment rate decreases reduce the burden on handlers, and may reduce the burden on producers. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the March 18–19, 1999, 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 information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large tart cherry 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.

An interim final rule concerning this action was published in the **Federal Register** on July 27, 1999. Copies of the rule were mailed by the Board's staff to all Board members and cherry handlers. In addition, the rule was made available through the Internet by the office of the Federal Register. That rule provided a 60-day comment period which ended September 27, 1999. No comments were received.

A small business guide on complying with fruit, vegetable and specialty crop marketing agreement and orders may be viewed at the following website: <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 Board and other available information, it is found that finalizing this interim final rule, without modifications, as published in the **Federal Register** (64 FR 40511), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

Accordingly, the interim final rule amending 7 CFR part 930 which was published at 64 FR 40511 on July 27, 1999, is adopted as a final rule without change.

Dated: October 26, 1999.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–28377 Filed 10–28–99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV99–984–2 FR]

Walnuts Grown in California; Reporting Walnuts Grown Outside of the United States and Received by California Handlers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the administrative rules and regulations of the Federal marketing order for California walnuts (order) to require handlers to report receipts of walnuts grown outside of the United States. The order regulates the handling of walnuts grown in California and is administered locally by the Walnut Marketing Board (Board). Requiring handlers to report to the Board receipts of walnuts grown outside of the United States will allow the Board to have better information on the total available supply of walnuts within California, which includes both California and foreign product. This will facilitate program administration.

EFFECTIVE DATE: This rule becomes effective November 1, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the “order.” The marketing agreement and order are 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 final rule in conformance with Executive Order 12866.

This 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 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. Such 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 final rule revises the order's administrative rules and regulations to require handlers to report to the Board receipts of walnuts grown outside of the United States. This will allow the Board to have better information on the total available supply of walnuts within California, which includes both California and foreign product, which will facilitate program administration. This action was unanimously recommended by the Board at a meeting on September 11, 1998.

Section 984.76 of the order provides authority for the Board, with the approval of the Secretary, to require handlers to furnish reports and information to the Board as needed to enable the Board to perform its duties under the order. The Board meets during the season to make decisions on various programs authorized under the order. These programs include quality control (minimum grade and size requirements for both inshell and shelled walnuts placed into channels of commerce), volume regulation, and projects regarding production research, and marketing research and development.

The Board would like to have better information on the total supply of walnuts within California, which includes both California and foreign

product. The Board will use this information in its marketing policy deliberations each fall when it reviews the crop estimate, handler carryover, and other factors to determine whether volume regulation would be appropriate. In addition, the Board has some concerns that, particularly in short crop years when handlers may import more walnuts to meet customer demands, imported walnuts could be included in handler inventory reports of California walnuts. Accurate information regarding the supply of walnuts within California is needed by the Board in its administration of the order.

According to the National Agricultural Statistics Service, the 10-year average annual production of California walnuts is 235,000 inshell tons. Bureau of Census data indicates that the 10-year average annual import figure for walnuts is 1,036.5 shelled tons. However, during short crop years in California such as the 1992-93 (203,000 inshell tons) and 1996-97 (208,000 inshell tons) seasons, imports increased to 8,046 and 5,806 shelled tons, respectively.

Thus, the Board recommended that handlers be required to report to the Board receipts of walnuts grown outside of the United States. This report, WMB Form No. 7, will be submitted to the Board four times per year as follows: On or before November 5 for such walnuts received during the period August 1 to October 31; on or before February 5 for such walnuts received during the period November 1 to January 31; on or before May 5 for such walnuts received during the period February 1 to April 30; and on or before August 5 for such walnuts received during the period May 1 to July 31. The report will include the quantity of such walnuts received, country of origin, and whether such walnuts were inshell or shelled. Given the effective date of this final rule, the first reporting date will be February 5, 2000, for walnuts received during the period November 1 to January 31.

The Board also recommended that, with each report, the handler submit a copy of a product tag issued by the Dried Fruit Association of California (DFA) for compliance purposes. The DFA is a private agency designated under the marketing order to provide inspection services for handlers to ensure that California walnuts meet minimum grade and size requirements in effect under the order. The product tag will indicate the name of the person from whom the walnuts were received, the date the walnuts were received by the handler, the number of containers and U.S. Custom's Service entry

number, whether the product is inshell or shelled, the quantity of walnuts, country of origin, the name of the DFA inspector who issued the tag, and the date such tag was issued. The Board believes product tags are necessary to verify handler receipt reports for imported walnuts. Accordingly, a new § 984.476 is added to the orders' administrative rules and regulations.

Final Regulatory Flexibility Analysis and Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the 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 5,000 producers of walnuts in the production area and approximately 50 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts 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 producers of California walnuts may be classified as small entities.

During the 1997-98 season, as a percentage, 33 percent of the handlers shipped over 2.4 million kernelweight pounds of walnuts, and 67 percent of the handlers shipped under 2.4 million kernelweight pounds of walnuts. Based on an average price of \$2.10 per kernelweight pound at the point of first sale, the majority of handlers of California walnuts may be classified as small entities.

This rule adds a new § 984.476 to the order's administrative rules and regulations which requires handlers to report to the Board receipts of walnuts grown outside of the United States. This will allow the Board to have better information on the total available supply of walnuts, including California and foreign product, which will facilitate program administration. Authority for requiring handlers to submit this information to the Board is provided in § 984.76 of the order.

Regarding the impact of this action on affected entities, this rule should impose minimal additional costs. The Board estimates that about six handlers have imported walnuts over the past few years. Such handlers will be required to submit an additional report to the Board four times per year along with tags issued by the DFA verifying receipts of foreign product. The DFA currently provides inspection services for all handlers of California walnuts and will be available at no additional cost to issue product tags to handlers receiving imports. Handlers will then submit these tags to the Board for verification purposes.

An alternative to this action would be to not collect information from handlers on receipts of imported walnuts. However, as previously mentioned, the Board would like to have better information on the total available supply of walnuts within California, which includes both California and foreign product. The only way this information can be obtained by the Board is to collect it from handlers. This information will facilitate program administration by improving the Board's base of information from which to make decisions.

The Board also recommended that a system be established for monitoring walnuts grown outside of the United States that are received by California handlers. Under the proposed monitoring system, DFA inspectors would check whether or not foreign product had been inspected and met the requirements of section 8e of the Act. Under section 8e, whenever certain specified commodities are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestic commodity. Walnuts are included under section 8e, and thus importers of walnuts are required to have such walnuts inspected. However, it is the USDA's responsibility to ensure that imported walnuts meet the requirements of section 8e. Thus, we are not proceeding with this recommendation.

Finally, the Board considered whether it would be useful to collect information on walnuts grown outside of California, but within the United States. However, Board members agreed that the amount of such walnuts was so small, it was not worth requiring handlers to report such information.

This action imposes some additional reporting and recordkeeping burden on handlers that receive walnuts grown outside of the United States. It is

estimated that six handlers may import walnuts during the season. Such handlers will be required to submit a receipt report to the Board four times per year. It is estimated that it will take such handlers 5 minutes to complete each report. Thus, the additional annual burden should total no more than 2 hours for the industry. The information will be collected on WMB Form No. 7. That form has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581-0178. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has identified one relevant Federal rule regarding requirements for walnuts grown outside of the United States. As previously stated, walnuts are included under section 8e. Thus, importers of walnuts are required to have such walnuts inspected by the USDA's inspection service. Importers whose walnuts meet section 8e requirements do not have to submit any paperwork to the USDA. However, importers whose walnuts fail section 8e requirements, or whose walnuts are exempt from section 8e because such walnuts are so immature that they cannot be used for drying and sale as dried walnuts (green walnuts), or are being sent to designated outlets (animal feed, processing, or charity) have to submit paperwork to the USDA. However, only a small amount of information requested by the USDA in these instances or by the Board through this rule, will be duplicative.

In addition, the Board's meeting on September 11, 1998, where this action was deliberated was a public meeting widely publicized throughout the walnut industry. This issue was also deliberated at an earlier Board meeting on February 2, 1998, and at a Grades and Standards Subcommittee meeting on June 5, 1998. All interested persons were invited to attend these meetings and participate in the industry's deliberations. A proposed rule concerning this action was published in the **Federal Register** on August 19, 1999 (64 FR 45208). Copies of the rule were mailed to all handlers, Board members, and alternate members. The rule was also made available through the Internet by the Office of the Federal Register. A 60-day comment period ending October 18, 1999, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may

be viewed at the following web site: <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 matter presented, including the information and recommendation submitted by the Board 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The Board would like to begin collecting this report as soon as possible in order to have better information on the total supply of walnuts within California; (2) the first report would be due to the Board on or before February 5, 2000; (3) handlers are aware of this rule which was unanimously recommended at a public meeting; and (4) a 60-day comment period was provided in the proposed rule; no comments were received.

List of Subjects in 7 CFR Part 984

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

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

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

2. A new § 984.476 is added to read as follows:

§ 984.476 Report of walnut receipts from outside of the United States.

Each handler who receives walnuts from outside of the United States shall file with the Board, on WMB Form No. 7, a report of the receipt of such walnuts. The report shall be filed beginning with the February 5, 2000, report as follows: On or before November 5 for such walnuts received during the period August 1 to October 31; on or before February 5 for such walnuts received during the period November 1 to January 31; on or before May 5 for such walnuts received during the period February 1 to April 30; and on or before August 5 for such walnuts received during the period May 1 to July 31. The report shall include the quantity

of such walnuts received, the country of origin for such walnuts, and whether such walnuts are inshell or shelled. With each report, the handler shall submit a copy of a product tag issued by a DFA of California inspector for each receipt of such walnuts that includes the name of the person from whom such walnuts were received, the date such walnuts were received by the handler, the number of containers and the U.S. Customs Service entry number, whether such walnuts are inshell or shelled, the quantity of such walnuts received, the country of origin for such walnuts, the name of the DFA of California inspector who issued the product tag, and the date such tag was issued.

Dated: October 26, 1999.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-28376 Filed 10-28-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-ANE-15; Amendment 39-11392; AD 99-22-14]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Pratt & Whitney JT8D-200 series turbofan engines, that currently requires installation of high pressure turbine (HPT) containment hardware. This amendment requires removing low pressure turbine (LPT)-to-exhaust case bolts and nuts and replacement with improved LPT-to-exhaust case bolts and nuts, and installation of improved HPT containment hardware. This amendment is prompted by uncontained HPT events resulting from HPT shaft fractures and LPT flange separations resulting from LPT blade failures. The actions specified by this AD are intended to prevent damage to the airplane resulting from uncontained engine debris following an HPT shaft fracture or an LPT blade failure.

DATES: Effective December 28, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 28, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, Publications Department, Supervisor Technical Publications Distribution, M/S 132-30, 400 Main St., East Hartford, CT 06108; telephone (860) 565-8770, fax (860) 565-4503. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803-5299; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (781) 238-7152, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 93-23-10, Amendment 39-8746 (57 FR 57705, December 17, 1993), which is applicable to certain Pratt & Whitney (PW) JT8D-200 series turbofan engines, was published in the **Federal Register** on March 15, 1999 (64 FR 12770). That action proposed to require removing low pressure turbine (LPT)-to-exhaust case bolts and nuts and replacement with improved LPT-to-exhaust case bolts and nuts, and installation of improved high pressure turbine (HPT) containment hardware.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requests Revision 1 of PW Service Bulletin (SB) No. 6149, dated August 27, 1998, be the required SB for performance of the actions required by paragraph (b) of the proposed rule. The FAA concurs. Since publication of the NPRM, PW has also issued Revision 1 to PW Alert Service Bulletin (ASB) No. A6346, dated April 23, 1999. The FAA has added both later revisions to this final rule as references. Operators who have installed hardware in accordance with the original versions of the SB and the ASB are not required to apply for an Alternate Method of Compliance (AMOC) in order to be considered as having complied with the AD.

One commenter states that the estimated number of domestic JT8D-217C/219 engines is incorrect in the economic analysis of the proposed rule, and offers a better estimate. The FAA concurs and has revised the economic analysis in this final rule.

One commenter has no objection to the rule as proposed.

One commenter agrees with the rule as proposed.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 2,727 engines of the affected design in the worldwide fleet. The FAA estimates that 1,473 engines installed on airplanes of U.S. registry will be affected by this AD, and that no additional work hours per engine to accomplish the required actions are necessary since they should take place when an engine is already sufficiently disassembled for normal maintenance on those parts. Required parts will cost approximately \$19,911 per engine for the 1,030 engines requiring improved (over AD 93-23-10) containment hardware, and \$3,275 for 1,473 engines requiring improved bolts and nuts. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$25,332,405. The manufacturer may be providing parts free of charge; therefore the actual cost to operators may be reduced.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy