

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of plum pox.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which the quarantine designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

Pennsylvania

Adams County. The townships of Latimore and Huntington.

§ 301.74-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

The interstate movement of any regulated article from a quarantined area² is prohibited except when:

(a) The regulated article is moved by the United States Department of Agriculture:

(1) For an experimental or scientific purpose;

(2) Pursuant to a Departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plum pox; and

(4) With a tag or label bearing the number of the Departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container; or

(b) The regulated article originated outside the quarantined area and:

(1) Is moved in an enclosed vehicle or is completely enclosed by a covering (such as canvas, plastic, or other closely woven cloth) adequate to prevent access by aphids or other transmission agents

of plum pox while in the quarantined area;

(2) The regulated article's point of origin is indicated on the waybill; and

(3) The regulated article must not be uncovered, unpacked, or unloaded while moving through the quarantined area.

Done in Washington, DC, this 30th day of May 2000.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-13931 Filed 6-1-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV00-930-4 IFR]

Tart Cherries Grown in the States of Michigan, et al.; Authorization of Japan as an Eligible Export Outlet for Diversion and Exemption Purposes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes Japan as an eligible export market under the diversion and exemption provisions of the Federal tart cherry marketing order (order). Currently, shipments to Canada, Mexico, or Japan do not qualify for diversion credit and may not be approved as exempt uses. The Cherry Industry Administrative Board (Board) recommended allowing shipments to Japan to qualify as exempt use shipments and to be eligible for diversion credit. The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and is administered locally by the Board.

DATES: Effective June 5, 2000; comments received by August 1, 2000 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. 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) 720-5698 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 5D03, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734-5243; Fax: (301) 734-5275; 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) 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 rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930) regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the "order." This 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 or USDA) is issuing this 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. 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

²Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

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 date of the entry of the ruling.

This rule authorizes shipments of tart cherries to Japan to qualify as exempt use shipments and to be eligible for diversion credit. Currently, exports to countries other than Canada, Mexico, or Japan may receive diversion credit, and may qualify as exempt shipments. Japan has not been eligible for diversion and exemption in the past because, according to the Board, tart cherry markets were well established in that country. The Board, at its March 2, 2000, meeting, recommended allowing Japan to become an eligible export outlet for diversion credit and exempt uses in order to stimulate export sales to that country. This is because exports to Japan have greatly decreased.

The order authorizes the use of volume regulation. In years when volume regulation is implemented to stabilize supplies, a certain percentage of the cherry crop is required to be set aside as restricted tonnage, and the balance may be marketed freely as free tonnage. The restricted tonnage is required to be maintained in handler-owned inventory reserve pools. Handlers in volume regulated States may fulfill their restricted tonnage requirements with diversion credits earned by diverting cherries or cherry products. Handlers are permitted to divert (at plant or with grower-diversion certificates from growers choosing not to deliver their crop) as much of their restricted percentage (reserve pool) requirements as they deem appropriate. Handlers also may divert cherries by using cherries or cherry products for exempt purposes, including the development of export markets. Presently, these markets do not include Canada, Mexico, and Japan.

Section 930.62 of the order (Exemptions) provides that cherries which are diverted in accordance with § 930.59, which are used for new product and new market development, which are used for experimental purposes, or which are used for any other purposes designated by the Board, including cherries processed into products for markets for which less than 5 percent of the preceding 5-year average production of cherries was utilized, may be exempted from the assessment, quality control, volume regulation, and reserve provisions of the order.

Currently, § 930.162 of the rules and regulations under the order authorizes exemptions for the sale of cherries and

cherry products, including the development of sales for new and different tart cherry products or the expansion of sales for existing tart cherry products, to countries other than Canada, Mexico, and Japan.

When the Board initially recommended regulations for exempt uses and handler diversion in 1997, exports to Japan were at an average of 3.0 million pounds. The industry considered Japan, as well as Canada and Mexico, to be premium markets for tart cherries, not outlets for which exemptions and diversion credit could be given. However, in 1998, sales to Japan fell to 1.6 million pounds. The Board therefore recommended that exports to Japan be eligible for diversion and exemption. This, in the Board's opinion, would provide incentive for handlers to make shipments to that country and stimulate market activity.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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 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 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual

receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of tart cherry producers and handlers may be classified as small entities.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1995/96 through 1999/00, approximately 90 percent of the U.S. tart cherry crop, or 280.3 million pounds, was processed annually. Of the 280.3 million pounds of tart cherries processed, 63 percent was frozen, 29 percent was canned and 8 percent was utilized for juice. Exports to Japan in 1998 were 1.6 million pounds.

This rule authorizes tart cherry shipments to Japan to qualify as exempt use shipments and to be eligible for diversion credit. The objective of this action is to stimulate and expand sales of tart cherries to that country. Authority for this action is found in §§ 930.59 and 930.62.

The impact of this rule would be beneficial to growers and handlers. It would assist growers to market a greater proportion of their crop to handlers who have access to export markets. Handlers, instead of diverting product at-plant or in-orchard or placing product in reserves, could ship product to Japan and receive diversion certificates that could be used to offset any restricted percentage obligations. Handlers also would benefit from this action as they would be able to process greater amounts of tart cherries, as a result of receiving more product from growers for shipment to Japan, through their facilities, thus spreading their operation costs and increasing returns to growers.

One alternative to this action would be to continue to disallow exemptions and diversion credit for shipments to Japan. However, this would not be favorable to cherry growers and handlers and could cause a further decline in the Japanese market.

This rule would not impose any additional 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 sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the

information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581-0177.

The Board's meetings were widely publicized throughout the tart cherry industry and all interested persons were invited to attend them and participate in Board deliberations. Like all Board meetings, the March 2000 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Board itself is composed of 18 members, of which 17 members are growers and handlers and one represents the public. Also, the Board has a number of appointed committees to review certain issues and make recommendations.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements 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.

This rule invites comments on authorizing Japan as an eligible export outlet for purposes of the diversion and exemption provisions under the order. After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

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 preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements by providing an additional opportunity for handlers to receive an exemption or diversion credit; (2) the Board needs this rule to be in place by July 1, 2000, so handlers can take advantage of this option; (3) the Board recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

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

1. The authority citation for 7 CFR part 930 continues to read as follows:

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

§ 930.159 [Amended]

2. In § 930.159, paragraph (a) is amended by removing the word "Japan" and adding the word "and" in between the words "Canada" and "Mexico".

§ 930.162 [Amended]

3. In § 930.162, paragraph (a) and paragraph (b)(3) are amended by removing the word "Japan" and adding the word "and" in between the words "Canada" and "Mexico".

Dated: May 26, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-13782 Filed 6-1-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-21-AD; Amendment 39-11753; AD 2000-11-05]

RIN 2120-AA64

Airworthiness Directives; Air Tractor Incorporated Models AT-301, AT-401, and AT-501 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Air Tractor Incorporated (Air Tractor) Models AT-301, AT-401, and AT-501 airplanes that are equipped with a 3/16-inch thick aluminum fin front spar fitting and an all metal rudder. This AD requires that you repetitively inspect the vertical fin front spar attachment fittings for fatigue cracks, and rework the vertical fin if any

cracks are found. This AD is the result of reports of a vertical fin front spar fitting failure on a Model AT-401 airplane. The actions specified by this AD are intended to detect and correct cracks in the vertical fin front spar attachment fittings, which could result in failure of the vertical fin. This condition could lead to loss of directional control and eventual loss of airplane control.

DATES: This AD becomes effective on June 23, 2000.

The Director of the Federal Register previously approved the incorporation by reference of Snow Engineering Company Service Letter #138, Revised August 7, 1996, as of August 25, 1997.

The Director of the Federal Register approved the incorporation by reference of Snow Engineering Company Service Letter #196, Revised March 7, 2000, as of June 23, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 28, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-21-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Air Tractor Incorporated, P.O. Box 485, Olney, Texas 76374. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-21-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Romero, Aerospace Engineer, Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137; telephone: (817) 222-5102; facsimile: (817) 222-5960.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD?
The FAA has received a report of an incident involving an Air Tractor Model AT-401 airplane. The following describe this incident:

1. The vertical fin front spar plate cracked and caused failure of the vertical fin front spar fitting;
2. The rear spar consequently failed and the fin contacted the elevator, which caused difficulty in controlling the airplane; and
3. The front spar failure occurred in the 3/16-inch thick aluminum fin front spar fitting across one of the bolt holes where the fitting attaches to the fuselage frame.