

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV00-920-3 FIR]

**Kiwifruit Grown in California;
Decreased Assessment Rate**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Kiwifruit Administrative Committee (Committee) for the 2000-2001 and subsequent fiscal periods from \$0.05 to \$0.03 per 22-pound volume fill container or equivalent of kiwifruit. The Committee locally administers the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: November 27, 2000.

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, 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, room 2525-S, PO 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, room 2525-S, PO Box 96456, 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 Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The marketing 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning August 1, 2000, and continue until amended, suspended, or terminated. 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 rule continues to decrease the assessment rate established for the Committee for the 2000-2001 and subsequent fiscal periods from \$0.05 to \$0.03 per 22-pound volume fill container or equivalent of kiwifruit.

The California kiwifruit marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of California

kiwifruit. They are familiar with the Committee's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate.

The assessment is normally formulated and discussed in a public meeting. A public meeting was held on July 11, 2000. Because a Committee quorum (eight Committee representatives) was not present at the meeting, the Committee voted on the budget and assessment rate by telephone on July 13, 2000. Thus, all directly affected persons had an opportunity to participate and provide input.

For the 1998-1999 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

In the telephone conference call on July 13, 2000, the Committee unanimously recommended 2000-2001 expenditures of \$81,575 and an assessment rate of \$0.03 per 22-pound volume fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were \$83,800. The assessment rate of \$0.03 is \$0.02 lower than the rate previously in effect. The Committee voted to reduce 2000-2001 budgeted expenditures and the assessment rate to lessen the financial burden on California kiwifruit handlers.

The following table compares major budget expenditures recommended by the Committee for the 2000-2001 and 1999-2000 fiscal periods:

Budget expense categories	2000-2001	1999-2000
Administrative Staff & Field Salaries	52,000	56,000
Travel, Food & Lodging	9,500	7,500
Office Costs	12,000	14,000
Vehicle Expense		
Account	4,000	2,300
Annual Audit	4,075	4,000

The assessment rate recommended by the Committee was derived by considering the amount of funds in the Committee's operating reserve, anticipated expenses, and expected shipments of California kiwifruit. Kiwifruit shipments for the year are estimated at 2,704,545 22-pound volume fill containers or equivalents of kiwifruit, which should provide \$81,136 in assessment income at an assessment

rate of \$.03 per container, \$439 less than the estimated expenses. Income derived from handler assessments, along with \$24,000 carry-in from the Committee's operating reserve, will be adequate to meet budgeted expenses and to establish an adequate reserve (estimated to be \$23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (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 400 producers of kiwifruit in the production area and approximately 56 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) 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.

None of the 56 handlers subject to regulation have annual kiwifruit sales of at least \$5,000,000, excluding receipts from any other sources. Ten of the 400 producers subject to regulation have annual sales of at least \$500,000; and the remaining 390 producers have sales less than \$500,000, excluding receipts from any other sources. The majority of California kiwifruit producers and handlers may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from \$0.05 to \$0.03 per 22-pound volume fill container or equivalent. The Committee unanimously recommended 2000–2001 expenditures of \$81,575 and an assessment rate of \$0.03 per 22-pound volume fill container or equivalent. The assessment rate of \$0.03 is \$0.02 lower than the previous rate. The quantity of assessable kiwifruit for the 2000–2001 fiscal period is estimated at 2,704,545 22-pound volume fill containers or equivalent. Thus, the \$0.03 rate should provide \$81,136 in assessment income, \$439 less than the estimated expenses.

The estimated assessments of \$81,136 combined with the \$24,000 from the Committee's operation reserve will allow the Committee to meet its expenses and to establish an adequate reserve (estimated to be \$23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The following table compares major budget expenditures recommended by the Committee for the 2000–2001 and 1999–2000 fiscal years:

Budget expense categories	2000–2001	1999–2000
Administrative Staff & Field Salaries	52,000	56,000
Travel, Food & Lodging	9,500	7,500
Office Costs	12,000	14,000
Vehicle Expense		
Account	4,000	2,300
Annual Audit	4,075	4,000

The Committee reviewed and unanimously recommended 2000–2001 expenditures of \$81,575 which includes decreases in administrative staff and field salaries and office costs. The Committee also unanimously recommended lowering the assessment rate from \$0.05 to \$0.03 to lessen the financial burden on handlers.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Assessment Subcommittee. These groups discussed alternative expenditure levels. The subcommittee looked at maintaining the assessment rate at its current level, but determined that the handler financial burden should be lessened. The assessment rate of \$0.03 per 22-pound volume fill container or equivalent of assessable kiwifruit was recommended by the Committee and was derived by considering the funds in the Committee's operating reserve, anticipated expenses, and expected shipments of California kiwifruit.

Kiwifruit shipments for the year are estimated at 2,704,545 22-pound volume fill containers or equivalents of kiwifruit, which should provide \$81,136 in assessment income, \$439 less than the estimated expenses. Income derived from handler assessments, along with the \$24,000 carry-in from the Committee's operating reserve, will be adequate to meet budgeted expenses and to establish an adequate reserve (estimated to be \$23,561 at the end of the 2000–2001 fiscal period). Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2000–2001 season will be approximately \$12.32 per 22-pound volume fill container or equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue is estimated at 0.2 percent.

This action continues to decrease 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, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's July 11, 2000, meeting was widely publicized throughout the California 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 July 11, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

Additionally, all attendees were advised of the conference call to be conducted on July 13, 2000. Finally, interested persons were 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 California 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.

An interim final rule concerning this action was published in the **Federal Register** on August 14, 2000 (65 FR 49472). Copies of that rule were also mailed or sent via facsimile to all kiwifruit handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 13, 2000. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <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 Committee 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.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

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

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 920 which was published at 65 FR 49472 on August 14, 2000, is adopted as a final rule without change.

Dated: October 23, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-03-AD; Amendment 39-11946; AD 2000-21-14]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC-12 and PC-12/45 airplanes. This AD requires you to perform a one-time inspection for abrasion damage, distortion, and proper clearance of the torque oil-pressure tubes and py pressure pipe, and if necessary, adjust and replace these components. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to correct abrasive damage from rubbing pipes and consequent loss of engine oil.

DATES: This AD becomes effective on December 15, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 15, 2000.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH-6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-03-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 20001.

FOR FURTHER INFORMATION CONTACT: Roman T. Gabrys, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4141; facsimile: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC-12 and PC-12/45 airplanes. The FOCA reports that 3 airplanes had rubbing pipes, 2 with consequent leakage of engine oil. Inadequate clearance caused these components to touch and rub.

What are the consequences if you do not correct the condition? This condition, if not corrected, could result in loss of propulsion during flight.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Models PC-12 and PC-12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 18, 2000 (65 FR 50466). The NPRM proposed to require a one-time inspection of the torque oil-pressure tubes and py pressure pipe; and adjust and replace, if necessary, the torque oil-pressure tubes and py pressure pipe.

Was the public invited to comment? Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

What is FAA's Final Determination on this Issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We determined that these minor corrections:

- Will not change the meaning of the AD; and
- Will not add any additional burden upon the public than was already proposed.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 108 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the inspection: