

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 30229 on June 7, 1999, is adopted as a final rule without change.

Dated: September 14, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-24437 Filed 9-17-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1131

[DA-99-05]

Milk in the Central Arizona Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: This document suspends certain provisions of the Central Arizona Federal milk marketing order (Order 131) from the day after publication in the **Federal Register** until the implementation of Federal order reform on October 1, 1999. The suspension eliminates the requirement that a cooperative association ship at least 50 percent of its receipts to other handler pool plants to maintain pool plant status of a manufacturing plant operated by the cooperative. United Dairymen of Arizona, a cooperative association that represents nearly all of the producers who supply milk to the market, requested the suspension. The suspension is necessary to prevent uneconomical and inefficient movements of milk and to ensure that producers historically associated with the market will continue to have their milk pooled under Order 131.

EFFECTIVE DATE: September 21, 1999, through September 30, 1999.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing

Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, PO Box 96456, Washington, DC 20090-6456, (202)720-9368, e-mail address clifford.carman@usda.gov.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued July 9, 1999; published July 15, 1999 (64 FR 38144).

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a 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 Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 request modification or exemption from such order by filing 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 the law. A handler is afforded the opportunity for a hearing on the petition. After a 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 its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does

not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of March 1999, 100 dairy farmers were producers under Order 131. Of these producers, three were considered small businesses. For the same month, there were five regulated handlers under Order 131. Two of these handlers were considered small businesses.

This final rule will suspend the requirement that a cooperative association ship at least 50 percent of its receipts to other handler pool plants to maintain pool status of a manufacturing plant operated by the cooperative. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing. This rule will not result in any additional regulatory burden on handlers in the Central Arizona marketing area since this suspension has been in effect since April 1995.

Preliminary Statement

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Central Arizona milk marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on July 15, 1999 (64 FR 38144), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment supporting the proposed suspension was received from United Dairymen of Arizona.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that from the day after publication of this rule in the **Federal Register** through September 30, 1999, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1131.7, paragraph (c), the words "50 percent or more of", "(including the skim milk and butterfat in fluid milk products transferred from its own plant pursuant to this paragraph that is not in

excess of the skim milk and butterfat contained in member producer milk actually received at such plant)", and "or the previous 12-month period ending with the current month."

Statement of Consideration

The rule suspends certain provisions of the Central Arizona Federal milk order through September 30, 1999. Implementation of Federal order reform begins on October 1, 1999. The suspension removes the requirement that a cooperative association that operates a manufacturing plant in the marketing area must ship at least 50 percent of its milk supply during the current month or the previous 12-month period ending with the current month to other handlers' pool plants to maintain the pool status of its manufacturing plant.

The order permits a cooperative association's manufacturing plant, located in the marketing area, to be a pool plant if at least 50 percent of the producer milk of members of the cooperative association is physically received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month.

Reinstatement of the suspension which expired on March 31, 1999, was requested by United Dairymen of Arizona (UDA), a cooperative association that represents nearly all of the dairy farmers who supply the Central Arizona market. UDA states that the pool status of their manufacturing plant is threatened if the suspension is not reinstated. UDA states that the same marketing conditions that warranted the suspension for the past four years still exist. UDA maintains that members who increased their milk production to meet the projected demands of fluid handlers for distribution into Mexico continue to suffer the adverse impact of the collapse of the Mexican peso. Absent a suspension, UDA projects that costly and inefficient movements of milk would have to be made to maintain the pool status of producers who have historically supplied the market and to prevent disorderly marketing in the Central Arizona marketing area.

A review of the current marketing conditions indicates that, absent the suspension, the pool plant status of UDA's manufacturing plant will not be maintained. Thus, costly and inefficient movements of milk would have to be made to maintain pool status of producers who have historically supplied the market and to prevent disorderly marketing in the Central Arizona marketing area. Therefore, the suspension is found to be necessary for

the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to assure that producers whose milk has long been associated with the Central Arizona marketing area will continue to benefit from pooling and pricing under the order. In addition, suspension of these provisions through September 30, 1999, will ensure that disorderly marketing conditions that may result from these provisions do not negatively impact producers in the future as these provisions have been modified in the Federal order reform regulatory language.

Accordingly, it is appropriate to suspend the aforesaid provisions from the day after publication of this rule in the **Federal Register** through September 30, 1999.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment was received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1131

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR part 1131 is amended for the period of one day following publication of this rule in the **Federal Register** through September 30, 1999, as follows:

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. The authority citation for 7 CFR Part 1131 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1131.7 [Suspended in part]

2. In § 1131.7, paragraph (c), the words "50 percent or more of",

"(including the skim milk and butterfat in fluid milk products transferred from its own plant pursuant to this paragraph that is not in excess of the skim milk and butterfat contained in member producer milk actually received at such plant)", and "or the previous 12-month period ending with the current month" during the month" are suspended.

Dated: September 13, 1999.

Richard M. McKee

Deputy Administrator, Dairy Programs.

[FR Doc. 99–24436 Filed 9–17–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–175–AD; Amendment 39–11318; AD 99–19–31]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A340 series airplanes. This action requires repetitive inspections to detect cracking of the right inboard attachment lug of the main fitting of the center landing gear (CLG), and replacement with a new or serviceable CLG, if necessary. This action also provides for replacement of the CLG with an improved CLG as an optional terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to detect and correct cracks in the attachment lug, which could result in failure of the CLG.

DATES: Effective October 5, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 5, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 20, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114,