

(3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of the factors resulted in the computation and announcement in September 2007 of the free and restricted percentages proposed to be established by this rule (57 percent free and 43 percent restricted).

One alternative to this action would be not to have volume regulation this season. Board members stated that no volume regulation would be detrimental to the tart cherry industry due to the size of the 2007–2008 crop. Returns to growers would not cover their costs of production for this season which might cause some to go out of business.

As mentioned earlier, the Department's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

While the benefits resulting from this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

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 September 6, 2007, 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.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements under the tart cherry marketing order have been previously approved by OMB and assigned OMB Number 0581–0177.

Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This rule does not change those requirements.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

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.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping tart cherries from the 2007–2008 crop. All written comments timely received will be considered before a final determination is made on this matter.

#### 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 proposed to be 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.

2. Section 930.255 is added to read as follows:

#### **§ 930.255 Final free and restricted percentages for the 2007–2008 crop year.**

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2007, which shall be free and restricted, respectively, are designated as follows: Free percentage, 57 percent and restricted percentage, 43 percent.

Dated: December 5, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–23907 Filed 12–10–07; 8:45 am]

**BILLING CODE 3410–02–P**

---

#### **DEPARTMENT OF AGRICULTURE**

#### **Agricultural Marketing Service**

#### **7 CFR Part 948**

[Docket No. AMS–FV–07–0115; FV08–948–1 PR]

#### **Irish Potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 2**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

---

**SUMMARY:** This rule invites comments on a modification of the minimum size requirements under the Colorado potato marketing order, Area No. 2. The marketing order regulates the handling of Irish potatoes grown in Colorado, and is administered locally by the Colorado Potato Administrative Committee, Area No. 2 (Committee). The minimum size requirements for Area No. 2 potatoes currently allow the handling of potatoes that are at least 2 inches in diameter or 4 ounces minimum weight, except that round potatoes may be of any weight, and Russet Burbank, Russet Norkotah,

and Silverton Russet varieties may be a minimum of  $1\frac{7}{8}$  inches in diameter or 4 ounces in weight. This rule would remove the exception that Russet Burbank, Russet Norkotah, and Silverton Russet varieties may be  $1\frac{7}{8}$  inches in diameter, thus requiring these varieties to also meet the minimum requirements of 2 inches in diameter or 4 ounces in weight. This change is intended to facilitate the handling and marketing of Colorado Area No. 2 potatoes.

**DATES:** Comments must be received by December 26, 2007.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or Internet: <http://www.regulations.gov>. 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, or can be viewed at: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: [Teresa.Hutchinson@usda.gov](mailto:Teresa.Hutchinson@usda.gov) or [GaryD.Olson@usda.gov](mailto:GaryD.Olson@usda.gov).

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, 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 (USDA) 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 USDA 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 USDA 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 USDA'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 a modification of the minimum size requirements under the order. The minimum size requirements for Area No. 2 potatoes currently allow the handling of potatoes that are at least 2 inches in diameter or 4 ounces minimum weight, except that round potatoes may be of any weight, and Russet Burbank, Russet Norkotah, and Silverton Russet varieties may be a minimum of  $1\frac{7}{8}$  inches in diameter or 4 ounces in weight. This rule would remove the exception that Russet Burbank, Russet Norkotah, and Silverton Russet varieties may be  $1\frac{7}{8}$  inches in diameter. This rule was recommended by the Committee at a meeting on August 16, 2007.

Section 948.22 authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the production area. Section 948.21 further authorizes the modification, suspension, or termination of requirements issued pursuant to § 948.22.

Section 948.40 provides that whenever the handling of potatoes is regulated pursuant to §§ 948.20 through 948.24, such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Under the order, the State of Colorado is divided into three areas of regulation for marketing order purposes. These include: Area No. 1, commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hinsdale, La Plata,

and all counties west thereof; Area No. 2, commonly known as the San Luis Valley, includes and consists of the counties of Sanguache, Huerfano, Las Animas, Mineral, Archuleta, and all counties south thereof; and, Area No. 3 includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2. The order currently regulates the handling of potatoes grown in Areas No. 2 and No. 3 only; regulation for Area No. 1 is currently not active.

Grade, size, and maturity regulations specific to the handling of potatoes grown in Area No. 2 are contained in § 948.386 of the order.

On August 16, 2001, the Committee recommended increasing the minimum size requirements from  $1\frac{7}{8}$  inches to 2 inches in diameter or 4 ounces minimum weight for all varieties of potatoes, except for round varieties and the Russet Burbank, Russet Norkotah, and Silverton Russet varieties. This recommendation was made effective July 15, 2002 (67 FR 40844). The Russet Burbank, Russet Norkotah, and Silverton Russet varieties were left at  $1\frac{7}{8}$  inches minimum diameter.

The Committee believes that the demand for fresh potatoes has decreased for the last several years and there are abundant supplies in the marketplace. Consumers prefer larger, higher quality potatoes. After reviewing market data over the past six years, the Committee decided to recommend removing the minimum size exception for Russet Burbank, Russet Norkotah, and Silverton Russet varieties. The Committee reports that potato size is important to consumers and that providing the sizes desired is necessary to maintain consumer confidence in the marketplace. The Committee believes that quality assurance is very important to the Colorado potato industry. The Committee also believes that most Colorado potato handlers are shipping Russet varieties at a minimum size of 2 inches in diameter or 4 ounces minimum weight. Providing customers with acceptable quality produce on a consistent basis is necessary to maintain buyer confidence in the marketplace and improve producer returns.

Under this proposal, Russet potatoes subject to minimum size requirements would meet the size requirements if they are at least 2 inches in diameter or 4 ounces in weight. Some long, thin potatoes might be smaller than 2 inches in diameter, but weigh at least 4 ounces. These potatoes would meet the proposed size requirements. Some potatoes might weigh less than 4 ounces, but be at least 2 inches in

diameter. These potatoes would also meet the proposed minimum size requirements.

Twelve members voted in favor of the proposed change and one member voted in opposition. The dissenting member was concerned that some industry members who produce smaller Russet potatoes might not support the change. The Committee made the recommendation to provide buyers with the sizes they prefer and to maintain buyer confidence. The Committee believes that this change would facilitate the handling and marketing of Colorado Area No. 2 potatoes and help improve producer returns.

#### Initial Regulatory Flexibility Analysis

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 rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 77 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts are less than \$6,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000.

During the 2006–2007 marketing year, approximately 16,061,432 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of \$11.00 per hundredweight, the Committee estimates that 66 Area No. 2 handlers, or about 86 percent, had annual receipts of less than \$6,500,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service (NASS), the average producer price for Colorado potatoes for 2006 was \$8.80 per hundredweight. The average annual fresh potato revenue for the Colorado Area No. 2 potato

producers is therefore calculated to be approximately \$785,226. Consequently, on average, the majority of the Area No. 2 Colorado potato producers may not be classified as small entities.

This rule would remove the exception that Russet Burbank, Russet Norkotah, and Silverton Russet varieties of Area No. 2 Colorado potatoes may be 1 $\frac{7}{8}$  inches in diameter. This rule would thus have the effect of increasing the minimum size requirements for Russet potatoes from 1 $\frac{7}{8}$  inches in diameter to 2 inches in diameter or 4 ounces in weight. Authority for this action is contained in §§ 948.21, 948.22, 948.40, and 948.386.

NASS estimated planted acreage for the 2006 crop in Area No. 2 at 59,900 acres, an increase of 1,700 acres when compared with 58,200 acres planted in 2005. In 2006, NASS data shows that Russet Norkotah, the most popular variety, was planted on 60.3 percent of the total potato acreage. Other Russet varieties accounted for 20.6 percent of the total acres planted, with various other varieties making up the remaining 19.1 percent.

Based on Committee records, 89.6 percent of Area No. 2 potatoes entered the fresh market during the 2006–2007 marketing year (including potatoes produced for seed). Of those potatoes, Russet potato varieties accounted for 89.2 percent.

Only a small portion of the crop is expected to be affected by the proposed size increase (i.e., that portion of Russet Burbank, Russet Norkotah, or Silverton Russet varieties smaller than 2 inches in diameter or 4 ounces in weight, but larger than 1 $\frac{7}{8}$  inches in diameter). Based on current customer demand, many handlers are already shipping 2-inch minimum diameter Russet potatoes. The Committee believes that the expected benefits of improved quality, increased purchases and sales volume, and increased returns received by producers would greatly outweigh the costs related to the regulation.

After discussing possible alternatives to this rule, the Committee determined that an increase in the minimum size for Russet varieties would increase returns to growers while supplying the market with a higher percentage of larger high quality potatoes. The Committee believes that the expected benefits are improved quality, increased purchases and sales volume, and increased returns received by producers. During its deliberations, the Committee also considered increasing the minimum size to 2 $\frac{1}{8}$  inches or 5 ounces in weight for Russet varieties. However, the Committee decided that increasing the minimum size from 1 $\frac{7}{8}$  inches diameter

to 2 $\frac{1}{8}$  inches in diameter would be too restrictive at this time.

This proposed rule would increase the size requirements for Russet varieties of potatoes under the order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large Russet potato 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.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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

In addition, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 16, 2007, 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 comments on this proposed rule, including 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: <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.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping potatoes from the 2007–2008 crop. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is proposed to be amended as follows:

**PART 948—IRISH POTATOES GROWN IN COLORADO**

1. The authority citation for 7 CFR part 948 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 948.386 is amended by revising paragraph (a)(2) to read as follows:

**§ 948.386 Handling Regulation.**

\* \* \* \* \*

(a) \* \* \*

(2) *All other varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

\* \* \* \* \*

Dated: December 4, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–23839 Filed 12–10–07; 8:45 am]

**BILLING CODE 3410–02–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2007–0308; Directorate Identifier 2007–NM–160–AD]

RIN 2120–AA64

**Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Boeing Model 747 airplanes identified above. This proposed AD would require modifying the outboard flap track and transmission attachments. This proposed AD results from a joint Boeing and FAA multi-model study (following in-service trailing edge flap structure and drive system events) on the hazards posed by skewing and failed flaps. This study identified the safety concerns regarding the transmission attachment design and the potential loss of an outboard trailing edge flap. We are proposing this AD to prevent certain discrepancies associated with this design (for example, a flap skew or lateral control asymmetry that can cause collateral damage to adjacent hydraulic tubing and subsequent loss of a

hydraulic system), which could result in the asymmetric flight control limits being exceeded, and could adversely affect the airplane's continued safe flight and landing.

**DATES:** We must receive comments on this proposed AD by January 25, 2008.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:**

Doug Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6487; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2007–0308; Directorate Identifier 2007–NM–160–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this

proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

**Discussion**

A report has been completed about a joint Boeing and FAA multi-model study (following in-service trailing edge flap structure and drive system events) on the hazards posed by skewing and failed flaps. The study identified safety concerns with the transmission attachment design, which does not meet the single failure condition analysis criteria. Three bolts attach the transmission to the flap track. The fracture of one of the transmission attachment bolts in flight could lead to an overload failure of the two remaining bolts and subsequent loss of the transmission. In addition, a support housing with an undetected fracture could lead to the loss of the transmission. Loss of the flap transmission could lead to a flap skew or lateral control asymmetry. Loss of a transmission could lead to possible collateral damage to adjacent hydraulic tubing and the loss of a hydraulic system. A flap skew or asymmetry combined with collateral hydraulic system damage could result in the asymmetric flight control limits being exceeded, and could adversely affect the airplane's continued safe flight and landing.

**Relevant Service Information**

We have reviewed Boeing Alert Service Bulletins 747–27A2398 and 747–27A2421, both dated April 19, 2007. The service bulletins describe the following procedures for modifying the outboard trailing edge flaps, including the following “airplane work”:

- Replacing the flap tracks and flap transmissions with a new configuration (flap tracks and flap transmissions 1, 2, 7, and 8);
- Reversing the bolt direction on the flap track side load fitting; and
- Installing new flap track fairing hinge braces. The service bulletins describe the following component work:
  - Replacing the upper forward and the upper aft flap transmission attachment bolt hole bushings;
  - Replacing the support housing;
  - Machining the track and installing the larger diameter bolt hole bushings, at the upper forward and upper aft flap transmission attachment locations (flap track assemblies 1 and 8) and at the