

Rules and Regulations

Federal Register

Vol. 61, No. 193

Thursday, October 3, 1996

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV96-920-3 IFR]

Kiwifruit Grown in California; Reduction of Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule reduces the reporting requirements for California kiwifruit handlers who ship less than 10,000 trays or tray equivalents per fiscal year. The changes in reporting requirements were unanimously recommended by the Kiwifruit Administrative Committee (Committee), the agency responsible for the local administration of the Federal marketing order for kiwifruit grown in California. This interim final rule decreases the reporting burden on such handlers while maintaining the information collection necessary for the efficient operation of the program.

DATES: Effective October 4, 1996; comments received by November 4, 1996 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 in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, Fax # (202) 720-5698. 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. Small businesses may request information on compliance with this regulation by contacting: Jay

Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax # (202) 720-5698.

FOR FURTHER INFORMATION CONTACT: Kurt J. Kimmel, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax # (209) 487-5906; or Charles L. Rush, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127, Fax # (202) 720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, 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) 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 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.

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.

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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of kiwifruit who are subject to regulation under the marketing order and approximately 500 producers of kiwifruit in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of kiwifruit handlers and producers may be classified as small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule reduces the number of reports required to be filed by small kiwifruit handlers (those who handle less than 10,000 tray equivalents per year). The decrease in the number of reports required to be filed does not inhibit the effective operation of the order. It is estimated that less than 100,000 tray equivalents would be shipped by those eligible for the reduced reporting requirement, or approximately one percent of California kiwifruit production. A majority of these small volume handlers, eligible for the reduced reporting requirement, sell fruit for two to five growers. Generally, kiwifruit shipments are small and may consist of less than 50 trays at a time. Shipment information from these small volume handlers will be added into the total shipments at the end of each fiscal year. The lack of shipment information that will be provided by these handlers on a monthly basis is insignificant. The Committee is still able to levy

assessments on those handlers eligible for the reduced reporting requirement based on the information in the shipment reports that is still required twice per season.

This rule directly benefits small kiwifruit handlers. It is anticipated that approximately 20 of the 65 handlers are eligible for the reduced reporting burden authorized by this rule. The range of volume of kiwifruit handled by kiwifruit handlers is extremely broad with some handlers handling as few as 50 tray equivalents and others over 1 million tray equivalents. The majority of handlers fall in the middle and on average ship between 100,000 and 800,000 tray equivalents.

Based on available information, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Under the terms of the order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, and pack and container requirements. In addition, the order authorizes the Committee to collect information from kiwifruit handlers in order to efficiently operate the program.

The Committee met on June 12, 1996, and unanimously recommended reducing the reporting burden for handlers who ship less than 10,000 tray equivalents per season. Such handlers, if they qualified with the committee, will no longer be required to complete biweekly inventory reports and will only be required to fill out a monthly shipment report twice per year.

Section 920.60 of the order authorizes the Committee, subject to the approval of the Secretary, to request information from handlers necessary to perform its duties under the order. Section 920.160(a) of the order's rules and regulations requires a report of shipments to be filed with the Committee by the fifth day of the month following such shipment, or such other later time established by the Committee. This report is used to compile statistical information on shipments and to calculate assessments owed under the marketing order. Pursuant to § 920.160(b) each handler must file a Kiwifruit Inventory Shipment System (KISS) report on the fifth and twentieth day of each month. The information collected in the KISS report is used to track inventories of California kiwifruit and provide inventory statistics, in aggregate, to the industry. Both of these reports are also required under the authority of the California Kiwifruit Commission (State Commission), which administers a State program.

Prior to the 1995–96 season, the State Commission determined that the reporting burden of the KISS report and the shipment report was disproportionately impacting small volume handlers. As a result, the State Commission created an alternate reporting system, known as “Reporting EZ.” It allows handlers who ship less than 10,000 tray equivalents per season to file the shipment report twice per season instead of monthly and exempts handlers from filing the KISS report.

Similarly, this rule reduces the frequency that the shipment report is filed and eliminates the filing of a KISS report for those handlers that ship less than 10,000 trays or tray equivalents per fiscal year so that the “Reporting EZ” program is authorized under both the State program and the Federal order. Handlers shipping under 10,000 trays or tray equivalents per season will only have to fill out the shipment report twice per year. The first report is due January 5 or such other later time established by the Committee and includes information on fresh shipments from the beginning of the fiscal year (August 1 through December 31). The second shipment report is due the fifth day of the month following each handler's last shipment for the season and includes shipments from January 1 until the end of shipping season.

In order for a handler to qualify for the “Reporting EZ” program, the Committee must make a determination prior to October 31 (near the beginning of the shipping season). The information that the Committee will use to determine whether a handler is qualified is available from the State Commission. The State Commission already requires handlers to submit information in order to determine whether a handler intends to ship under 10,000 tray equivalents per year. Thus, the Committee will not need to place any additional reporting burden on kiwifruit handlers in order to determine handler eligibility for the “Reporting EZ” program. The State Commission and the Committee have a written memorandum of understanding that provides for the sharing of information while keeping proprietary information confidential. Once the handler has qualified, the Committee will then notify handlers that they are eligible for the “Reporting EZ” program.

The information collection requirements contained in the referenced sections have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (Pub. L. 104–13) and

have been assigned OMB number 0581–0149.

This rule reduces the reporting burden on approximately 20 handlers of kiwifruit who have been spending approximately 240 hours completing the shipment reports and the KISS reports.

This rule invites comments on a reduction in the reporting requirements currently prescribed under the California kiwifruit marketing order. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, the information and recommendation submitted by the Committee, and other information, it is found that this interim final rule 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 the reporting requirements under the marketing order and should be implemented prior to the shipping season which begins October 1; (2) the Committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (3) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

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

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.160 paragraphs (a) and (b) introductory text are revised to read as follows:

§ 920.160 Reports.

(a) When requested by the Kiwifruit Administrative Committee, each shipper who ships kiwifruit, shall furnish a report of shipment and inventory data to the committee no later than the fifth day of the month following such shipment, or such other later time established by

the committee: *Provided*, That each shipper who ships less than 10,000 trays, or the equivalent thereof, per fiscal year and has qualified with the committee shall furnish such report of shipment and inventory data to the committee twice per fiscal year. The first report shall be due no later than January 5 and the final report no later than the fifth day of the following month after such shipment is completed for the season, or such other later times established by the committee. Such report shall show:

(1) The reporting period;
(2) the name and other identification of the shipper;
(3) the number of containers by type and weight by shipment destination category;

(4) inventory at the end of the reporting period by container, and with respect to flats, the size of the kiwifruit;

(5) the amount of kiwifruit lost in repack; and

(6) the amount of fruit set aside for processing.

(b) *Kiwifruit Inventory Shipping System (KISS) form*. Each handler, except such handlers that ship less than 10,000 trays, or the equivalent thereof, per season and have qualified with the committee, shall file with the committee the initial Kiwifruit Inventory Shipment System (KISS) form, which consists of three sections "KISS/Add Inventory," "KISS/Deduct Inventory," and "KISS/Shipment," on or before December 5th, or such other later time as the committee may establish.

* * * * *

Dated: September 27, 1996.

Sharon Bomer Lauritsen,
Acting Director, Fruit and Vegetable Division.
[FR Doc. 96-25280 Filed 10-2-96; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Boundaries of the Cordell Bank National Marine Sanctuary; Correction

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correcting amendment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is correcting a discrepancy in the

coordinates of the Cordell Bank National Marine Sanctuary, California.

EFFECTIVE DATE: October 3, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Moore at (301) 713-3141.

SUPPLEMENTARY INFORMATION: The Cordell Bank National Marine Sanctuary (CBNMS or Sanctuary) was designated in 1989. SRD issued final regulations, effective August 9, 1989, that included the coordinates of the boundary of the CBNMS (15 CFR part 922, subpart K, Appendix A). NOAA recently became aware of a minor discrepancy in the boundary coordinates of the Sanctuary: one boundary coordinate was erroneously duplicated at Points No. 27 and No. 29. This notice corrects that discrepancy by deleting Point No. 27 and re-numbering the boundary points that follow. Neither the actual boundary nor the area of the Sanctuary are affected by this correction.

NOAA has decided to make this document effective immediately because public comment and delayed effective date are not necessary due to the minimal nature of the correcting amendment.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 23, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

2. Appendix A to subpart K of part 922 is revised to read as follows:

Appendix A to Subpart K of Part 922—Cordell Bank National Marine Sanctuary Boundary Coordinates

Point No.	Latitude	Longitude
1	38°15'51.72"	123°10'52.44"
2	38°07'55.88"	123°38'33.53"
3	38°06'45.21"	123°38'00.40"
4	38°04'58.41"	123°37'14.34"
5	38°04'28.22"	123°37'17.83"
6	38°03'42.75"	123°36'55.66"
7	38°03'11.10"	123°36'19.78"
8	38°02'46.12"	123°36'21.98"
9	38°02'02.74"	123°35'56.56"
10	38°01'27.10"	123°35'55.12"
11	38°01'22.28"	123°36'55.13"
12	38°01'11.54"	123°37'28.21"
13	38°00'49.16"	123°37'29.77"
14	37°59'54.49"	123°36'47.90"

Point No.	Latitude	Longitude
15	37°59'12.39"	123°35'59.55"
16	37°58'39.40"	123°35'14.85"
17	37°58'00.57"	123°34'42.93"
18	37°57'18.99"	123°33'43.15"
19	37°56'56.42"	123°32'51.97"
20	37°56'18.90"	123°32'49.24"
21	37°55'22.37"	123°32'36.96"
22	37°54'26.10"	123°32'21.73"
23	37°53'07.46"	123°31'46.81"
24	37°52'34.93"	123°31'18.90"
25	37°51'42.81"	123°31'19.10"
26	37°50'59.58"	123°31'02.96"
27	37°49'22.64"	123°29'34.07"
28	37°48'49.14"	123°28'44.61"
29	37°48'36.95"	123°28'08.29"
30	37°48'03.37"	123°28'23.27"
31	37°47'41.54"	123°28'01.97"
32	37°47'01.78"	123°27'16.78"
33	37°46'51.92"	123°26'48.98"
34	37°46'13.20"	123°26'04.79"
35	37°46'00.73"	123°25'36.99"
36	37°50'25.31"	123°25'26.53"
37	37°54'32.28"	123°23'16.49"
38	37°57'45.71"	123°19'17.72"
39	37°59'29.27"	123°14'12.16"
40	37°59'43.71"	123°08'27.55"
41	38°03'10.20"	123°07'44.35"
42	38°04'01.64"	123°06'58.92"
43	38°08'33.32"	123°04'56.24"
44	38°12'42.06"	123°07'10.21"

[FR Doc. 96-25152 Filed 10-2-96; 8:45 am]

BILLING CODE 3510-08-M

FEDERAL TRADE COMMISSION

16 CFR Part 24

Guides for Select Leather and Imitation Leather Products

AGENCY: Federal Trade Commission.

ACTION: Final rule; Final Guides for Select Leather and Imitation Leather Products.

SUMMARY: The Federal Trade Commission (the "Commission"), as part of its periodic review of its rules and guides, announces that it has concluded a review of its proposed Guides for Select Leather and Imitation Leather Products ("proposed Guides"), which combined and amended the provisions of Guides for the Luggage and Related Products Industry, the Guides for Shoe Content Labeling and Advertising, the Guides for the Ladies' Handbag Industry and the Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts. The Commission has decided to adopt the proposed Guides, modified as discussed below.

EFFECTIVE DATE: The effective date of this rule is December 2, 1996.

FOR FURTHER INFORMATION CONTACT: Susan E. Arthur, Attorney, (214) 767-