

eradication of the Medfly would not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection of USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–3, paragraph (c) is amended by adding an entry for San Diego County, CA, in alphabetical order, to read as follows:

§ 301.78–3 Quarantined areas.

* * *

(c) * * *

California

San Diego County. That portion of San Diego County in the La Jolla area bounded by a line beginning at the intersection of North Torrey Pines and La Jolla Village Drive; then east along La Jolla Village Drive to Genesee Avenue; then southeast along Genesee Avenue to State Highway 274 (Balboa Avenue); then southwest along State Highway 274 (Balboa Avenue) to Clairemont Drive; then southwest along Clairemont Drive to Interstate Highway 5; then south along Interstate Highway 5 to Sea World Drive; then southwest along Sea World Drive to Sunset Cliffs Boulevard; then southwest along Sunset Cliffs Boulevard to West Point Loma Boulevard; then northwest along West Point Loma Boulevard to Voltaire Street; then west along Voltaire Street to the Pacific Ocean coastline; then north along the Pacific Ocean coastline to Scripps Pier; then east along an imaginary line to the intersection of Biological Grade and La Jolla Shores Drive; then northeast along La Jolla Shores Drive to North Torrey Pines; then south along North Torrey Pines to the point of beginning.

* * *

Done in Washington, DC, this 13th day of August, 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–22457 Filed 8–19–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV98–920–3 IFR]

Kiwifruit Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate and changes the assessable unit from \$0.0225 per tray or tray equivalent to \$0.05 per 22-pound volume fill container or equivalent of kiwifruit established for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1998–99 and subsequent fiscal periods. The assessment rate of \$0.0225 per tray or tray equivalent approximates \$0.0675 per 22-pound volume fill container. Thus, the assessment rate of \$0.05 per 22-pound volume fill container is less than the assessment rate currently in

effect. The Committee is responsible for local administration of 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 began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective August 21, 1998.

Comments received by October 19, 1998, 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, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. 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.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant or Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; 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) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, 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) 205–6632.

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, 1998, and continuing 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 decreases the assessment rate and changes the assessable unit established for the Committee for the 1998-99 and subsequent fiscal periods from \$0.0225 per tray or tray equivalent to \$0.05 per 22-pound volume fill container or equivalent. The assessment rate of \$0.0225 per tray or tray equivalent approximates \$0.0675 per 22-pound volume fill container. Thus, the assessment rate of \$0.05 per 22-pound volume fill container for the 1998-99 and subsequent fiscal periods is less than the assessment rate currently in effect.

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 with 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 rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1997-98 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.

The Committee met on July 8, 1998, and unanimously recommended 1998-99 expenditures of \$135,250 and an assessment rate of \$0.05 per 22-pound volume fill container or equivalent of kiwifruit. In comparison, last year's budgeted expenditures were \$161,286, and the assessment rate was \$0.0225 per tray equivalent, which approximates \$0.0675 per 22-pound volume fill container. The assessment rate of \$0.05 per 22-pound volume fill container is \$0.0175 or 26 percent lower than the equivalent rate currently in effect. The Committee voted to reduce 1998-99 budgeted expenditures and the assessment rate to lessen the financial burden on California kiwifruit handlers.

The Committee recommended changing the assessable unit to a 22-pound volume fill container or equivalent basis because this container is now the predominant container being used by handlers within the industry. Tray packs had been the container of choice in previous seasons, but handlers have been switching gradually to volume fill containers.

The Committee owes \$32,577 to the California Kiwifruit Commission (Commission) and plans to pay off the loan during the 1998-99 fiscal period. The Commission administers a State program utilized to promote kiwifruit grown in California. The Committee and Commission share staff and expenses pursuant to an agreement.

During the 1997-98 fiscal period, the Committee borrowed \$32,577 from the Commission pursuant to § 920.41 of the order to cover a funding deficit. Handler assessments received were lower than expected because the 1997-98 crop of 9 million trays or tray equivalents and shipments of 8.5 million trays or tray equivalents were smaller than the Committee anticipated. The Committee had estimated that assessments would total \$225,000 for the 1997-98 fiscal period, and that shipments for the period would total 10 million trays or tray equivalents.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998-99 and 1997-98 fiscal periods:

Budget expense categories	1998-99	1997-98
Administrative Staff & Field Salaries	44.2	102.2
Contingency Fund/ Operating Reserve	29.2	0
Travel, Food & Lodging	5	13.8
Accident & Health Insurance	3.8	12.2

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of California kiwifruit, and additional pertinent factors. Kiwifruit shipments for the year are estimated at 2,705,000 22-pound volume fill containers or equivalents of kiwifruit, which should provide \$135,250 in assessment income. Income derived from handler assessments will be adequate to cover budgeted expenses, to reimburse the borrowed funds, and to fund an adequate reserve. It is anticipated that the assessment rate of \$0.05 per 22-pound volume fill container or equivalent of kiwifruit handled will provide a reserve of \$29,200 at the end of the fiscal year. Currently, there are no funds in the reserve. Reserve funds will be kept within 1 fiscal period's expenses, the maximum permitted under § 920.42 of the order.

The assessment rate established in this rule 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 1998-99 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 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 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 450 producers of kiwifruit in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) 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. One of the 60 handlers subject to regulation has annual kiwifruit sales of at least \$5,000,000, and the remaining 59 handlers have sales less than \$5,000,000, excluding receipts from any other sources. Ten of the 450 producers subject to regulation have annual sales of at least \$500,000, and the remaining 440 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 decreases the assessment rate and changes the assessable unit established for the Committee for the 1998–99 and subsequent fiscal periods from \$0.0225 per tray or tray equivalent to \$0.05 per 22-pound volume fill container or equivalent. The assessment rate of \$0.0225 per tray or tray equivalent approximates \$0.0675 per 22-pound volume fill container. Thus, the assessment rate of \$0.05 per 22-pound volume fill container for the 1998–99 and subsequent fiscal periods is \$0.0175 less than the assessment rate currently in effect. The Committee unanimously recommended 1998–99 expenditures of \$135,250. The quantity of assessable kiwifruit for the 1998–99 fiscal period is estimated at 2,705,000, 22-pound volume fill containers. Thus, the \$0.05 rate should provide \$135,250 in assessment income and be adequate to meet this year's expenses.

The Committee recommended changing the assessable unit to a 22-pound volume fill container or equivalent basis because this container is now the predominate container being used by handlers within the industry.

Tray packs had been the container of choice in previous seasons, but handlers have been switching gradually to volume fill containers.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998–99 and 1997–98 fiscal years:

Budget expense categories	1998–99	1997–98
Administrative Staff & Field Salaries	44.2	102.2
Contingency Fund/ Operating Reserve	29.2	0
Travel, Food & Lodging	5	13.8
Accident & Health Insurance	3.8	12.2

The Committee owes \$32,577 to the California Kiwifruit Commission (Commission) and plans to pay off the loan during the 1998–99 fiscal period. The Commission administers a State program utilized to promote California kiwifruit. The Committee and Commission share staff and expenses through an agency agreement.

The Committee borrowed the money from the Commission pursuant to \$920.41 of the order to cover a fund shortage during the 1997–98 fiscal period. Handler assessments received were lower than expected because the 1997–98 crop of 9 million trays or tray equivalents and shipments of 8.5 million trays or equivalents were smaller than the Committee anticipated. The Committee had estimated that assessments would be \$225,000 for the 1997–98 fiscal period and that kiwifruit shipments would be 10 million trays or equivalents.

To lessen the financial burden on handlers, the Committee voted to reduce 1998–99 expenditures and the assessment rate. The reduced rate will allow the Committee to meet its expenses, to reimburse the borrowed funds, and to establish an adequate reserve (estimated to be \$29,200 at the end of the 1998–99 fiscal period). Currently, there are no funds in the reserve. Section 920.42 of the order provides for a maximum reserve equal to approximately 1 fiscal period's expenses.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Finance and Assessment Subcommittee. Alternative expense levels and assessment rates were considered at several industry strategic planning meetings. The assessment rate of \$0.05 per 22-pound volume fill container or equivalent of assessable

kiwifruit was determined by dividing the total recommended budget for 1998–99 by the quantity of assessable kiwifruit, estimated at 2,705,000 22-pound volume fill containers or equivalents.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1998–99 season will be approximately \$7.59 per 22-pound volume fill container or equivalent of kiwifruit. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue is estimated at 0.7 percent.

This action decreases 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 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 8, 1998, 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.

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.

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.

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) The 1998–99 fiscal period began on August 1, 1998, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable kiwifruit handled during such fiscal period; (2) this action decreases the assessment rate for assessable kiwifruit beginning with the 1998–99 fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

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

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

Authority: 7 U.S.C. 601–674.

2. Section 920.213 is revised to read as follows:

§ 920.213 Assessment rate.

On and after August 1, 1998, an assessment rate of \$0.05 per 22-pound volume fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

Dated: August 13, 1998.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–22454 Filed 8–19–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98–014–2]

Brucellosis in Cattle; State and Area Classifications; Florida

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Florida from Class Free to Class A. We have

determined that Florida no longer meets the standards for Class Free status. This action imposes certain restrictions on the interstate movement of cattle from Florida.

DATES: Interim rule effective August 13, 1998. Consideration will be given only to comments received on or before October 19, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–014–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–014–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–7709; or e-mail: rrollo@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail (1) maintaining a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) tracing back

to the farm of origin and successfully closing a stated percent of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing; (3) maintaining a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) maintaining minimum procedural standards for administering the program.

Before the effective date of this interim rule, Florida was classified as a Class Free State because there had been no known brucellosis in cattle in Florida for at least 12 consecutive months. However, as of August of 1998, two cattle herds in Florida were identified as infected with brucellosis.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) trace to the farm of origin at least 90 percent of all brucellosis reactors found in the course of MCI testing; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12 consecutive month period immediately prior to the most recent anniversary of the date the State or area was classified Class A; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating a source herd or recipient herd.

After reviewing the brucellosis program records for Florida, we have concluded that this State meets the standards for Class A status. Therefore, we are removing Florida from the list of Class Free States or areas in § 78.41(a) and adding it to the list of Class A States or areas in 78.41(b). This action imposes certain restrictions on the interstate movement of cattle from Florida.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to