boundary of the Kissena Corridor; then west along the northern boundary of the Kissena Corridor, Kissena Park, and Kissena Corridor Park to Van Wyck Expressway; then north along the Van Wyck Expresssway to the east shoreline of the Flushing River; then west, north, and east along the Queens shoreline to the City of New York and Nassau County line; then southeast along the City of New York and Nassau County line to the point of beginning.

Nassau and Suffolk Counties. That area in the villages of Amityville, West Amityville, North Amityville, Babylon, West Babylon, Copiague, Lindenhurst, Massapequa, Massapequa Park, and East Massapequa; in the towns of Oyster Bay and Babylon; in the counties of Nassau and Suffolk that is bounded as follows: Beginning at a point where West Main Street intersects the west shoreline of Carlis Creek; then west along West Main Street to Route 109; then north along Route 109 to Arnold Avenue; then northwest along Arnold Avenue to Albin Avenue; then west along Albin Avenue to East John Street; then west along East John Street to Wellwood Avenue; then north along Wellwood Avenue to the Southern State Parkway; then west along the Southern State Parkway to Broadway; then south along Broadway to Hicksville Road; then south along Hicksville Road to Division Avenue; then south along Division Avenue to South Oyster Bay; then east along the shoreline of South Oyster Bay to Carlis Creek; then along the west shoreline of Carlis Creek to the point of beginning.

That area in the villages of Bayshore, East Islip, Islip, and Islip Terrace in the Town of Islip, in the County of Suffolk, that is bounded as follows: Beginning at a point where Route 27A intersects Brentwood Road; then east along Route 27A to the Southern State Parkway Heckscher Spur; then north and west along the Southern State Parkway Heckscher Spur to Carleton Avenue; then north along Carleton Avenue to the southern boundary of the New York Institute of Technology; then west along the southern boundary of the New York Institute of Technology through its intersection with Wilson Boulevard to Pear Street; then west along Pear Street through its intersection with Freeman Avenue to Riddle Street; then west along Riddle Street to Broadway; then south along Broadway to the Southern State Parkway Heckscher Spur; then west along the Southern State Parkway Heckscher Spur to Brentwood Road; then south along Brentwood Road to the point of beginning.

Done in Washington, DC, this 6th day of September 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection, Service.

[FR Doc. 00–23368 Filed 9–11–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 944

[Docket No. FV00–920–2 FR]

Kiwifruit Grown in California and Imported Kiwifruit; Relaxation of the Minimum Maturity Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes the current minimum maturity requirements for fresh shipments of kiwifruit grown in California and for kiwifruit imported into the United States. The Kiwifruit Administrative Committee (Committee) which locally administers the marketing order for California kiwifruit unanimously recommended the change for California kiwifruit. The change in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This action allows handlers and importers to ship kiwifruit which meets the minimum maturity requirement of 6.2 percent soluble solids. This change is expected to reduce handler inspection costs, increase grower returns, and enable handlers and importers to compete more effectively in the marketplace.

EFFECTIVE DATE: September 13, 2000.

FOR FURTHER INFORMATION CONTACT: Rose 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, P.O. 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, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final 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 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.''

This final rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including kiwifruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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 action is not intended to have retroactive effect. This final 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 the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Under the terms of the order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack

and container requirements. Current requirements include specifications that such shipments be at least Size 45, grade at least KAC No. 1 quality, and contain a minimum of 6.5 percent soluble solids.

The order authorizes under § 920.52(a)(1) the establishment of minimum maturity requirements. Section 920.302(a)(3) of the rules and regulations outlines the minimum maturity requirements for fresh shipments of California kiwifruit and specifies that kiwifruit shall have a minimum of 6.5 percent soluble solids at the time of inspection.

Maturity is generally determined on the basis of total solids or soluble solids content. Kiwifruit can ripen on or off the vine and typically contains between 5 and 8 percent starch at harvest. This starch hydrolyzes into sugars during ripening. Kiwifruit continues to ripen while stored in refrigerated facilities and may reach 16.2 percent soluble solids when completely ripe.

In the 1980's, the minimum maturity requirements were established at 6.5 percent soluble solids for both the domestic and import regulations. This minimum soluble solids level was established because research showed that the majority of fruit harvested at 6.5 percent soluble solids ripened to a 13.5–14 percent soluble solids level or higher, and stored well. Also, consumer taste tests showed that fruit containing at least 13.5 percent soluble solids were more acceptable than fruit containing lower levels of soluble solids. These regulations benefited growers, handlers, consumers, and importers as improvements were seen in the quality of fruit shipped to the market place, domestic and export sales, and grower returns.

Since that time a number of factors have changed: (1) Research conducted during the 1990's has shown that fruit harvested at 6.2 percent soluble solids and handled properly has the potential to ripen to 12.6 percent soluble solids or higher, (2) recent consumer taste tests have shown that fruit containing at least 12.6 percent soluble solids has a high level of acceptability, and (3) the majority of the kiwifruit producing countries are now utilizing 6.2 percent soluble solids as their guideline for minimum maturity.

The six countries exporting kiwifruit to the United States are New Zealand, Chile, Greece, France, Italy, and Canada. New Zealand has a mandatory maturity standard of 6.2 percent soluble solids. Chile, Greece, France, Italy, and Canada utilize a voluntary 6.2 percent soluble solids guideline for minimum maturity.

The Committee, at its May 2, 2000, meeting, unanimously recommended relaxing the minimum maturity requirements to 6.2 percent soluble solids because of the above-mentioned factors and because this relaxation is expected to reduce handler inspection costs, increase grower returns, and enable handlers and importers to compete more effectively in the marketplace.

Section 8e of the Act provides that when certain domestically produced commodities, including kiwifruit, are regulated under a Federal order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule relaxes the minimum maturity requirement under the domestic handling regulations, a corresponding change to the import regulation must also be considered.

Minimum grade, size, quality, and maturity requirements for kiwifruit imported into the United States are currently in effect under § 944.550 (7 CFR 944.550). The minimum maturity requirement is covered in paragraph (a) of § 944.550. Paragraph (a) of § 944.550 states that the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meets all the requirements of a U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340) (Standards), except that the kiwifruit shall be ''not badly misshapen'', and an additional tolerance of 7 percent is provided for ''badly misshapen'' fruit. The Standards define ''Mature'' to mean that the fruit has reached the stage of development which will ensure the proper completion of the ripening process. The Standards further specify that the minimum average soluble solids, unless otherwise specified, shall be not less than 6.5 percent.

The relaxation in the minimum maturity requirement for importers of kiwifruit will also have a beneficial impact. This rule relaxes the minimum maturity requirement for imported kiwifruit from 6.5 percent soluble solids to 6.2 percent soluble solids. The majority of the kiwifruit producing countries now are utilizing a 6.2 percent soluble solids level as their guideline for minimum maturity. Thus, importers will be able to utilize one minimum maturity standard for shipments of kiwifruit.

The metric equivalent of the minimum sizes currently specified is also added to paragraph (a) of § 944.550.

Final Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final 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 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. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 56 handlers of California kiwifruit who are subject to regulation under the order and about 400 kiwifruit producers in the regulated area. There are approximately 50 importers of kiwifruit. Small agricultural service firms which include kiwifruit handlers and importers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. Fifty-six handlers and fifty importers have annual receipts of less than $5,000,000, excluding receipts from other sources. Three hundred ninety producers have annual sales less than $500,000, excluding receipts from any other sources. Therefore, a majority of the kiwifruit handlers, importers, and producers may be classified as small entities.

This rule relaxes the minimum maturity requirements specified in § 920.302(a)(3) (7 CFR part 920) of the order's regulations and in § 944.550 (7 CFR 944.550) for imported kiwifruit. These sections, respectively, allow handlers and importers to ship kiwifruit which meets the minimum maturity requirement of 6.5 percent soluble solids. Relaxation of the minimum maturity requirements to 6.2 percent soluble solids is expected to reduce handler inspection costs, increase grower returns, and enable handlers and importers to compete more effectively in the marketplace. Authority for this action is provided in § 920.52 (a)(1) of the order, and section 8e of the Act.

Regarding the impact of this action on affected entities, relaxing the minimum

maturity requirement to 6.2 percent soluble solids is expected to benefit handlers and importers. Handlers and importers will be able to utilize one minimum maturity standard for the majority of shipments of kiwifruit. The majority of the kiwifruit producing countries now utilize 6.2 percent soluble solids as their guideline for minimum maturity. Importers have not experienced problems meeting the minimum maturity requirement of 6.5 percent soluble solids. Therefore, it is expected that importers will not have any difficulty meeting the relaxed minimum maturity requirement of 6.2 percent soluble solids.

Imports account for 67 percent of domestic shipments and enter the United States between the months of March and August. Recent yearly data indicate that imports during the months of September through March are negligible. New Zealand, Chile, and Italy were the principal sources of imported fruit during the 1999–2000 (August 1–July 31) season, and accounted for 98 percent of the total import shipments, with the remaining imports being supplied by France, Greece, and Canada. Chile has been the largest exporter of kiwifruit to the United States since 1993. Chile shipped approximately 8 million tray equivalents (about 7 pounds of fruit per tray) into the U.S. market during the 1999–2000 season, representing over 56 percent of total market share. New Zealand shipped approximately 3 million tray equivalents; Italy shipped approximately 1 million tray equivalents; and Greece, France, and Canada had combined shipments of approximately 200,500 tray equivalents. The amount of imported kiwifruit is expected to increase during the 2000–2001 season. Italy is expected to have a bumper crop and the U.S. tariff restrictions on imports from New Zealand were lifted in August 1999.

The Committee believes that lowering the minimum maturity requirements to 6.2 percent soluble solids will benefit large and small entities equally. Handlers and importers will be able to maximize shipments of early-season kiwifruit. The shipment of early-season kiwifruit is expected to result in increased grower returns, as such fruit normally commands a higher price than fruit harvested later in the season.

The amount of fruit harvested for the early market is dependent upon market conditions, the storability of fruit, and the overall size and quality of the crop. Since such information is not yet available, the Committee was not able to estimate the amount of fruit that will be shipped during the early season, nor estimate the amount of increased grower returns.

Additionally, recent consumer taste tests have shown that fruit containing at least 12.6 percent soluble solids has a high level of acceptability. Research conducted during the 1990's also has shown that fruit with 6.2 percent soluble solids and that is handled properly has the potential to ripen to 12.6 percent soluble solids. Relaxing the minimum maturity requirement should make more kiwifruit available to consumers early in the season.

In the past, some early season fruit failed to meet minimum maturity requirements at the time of inspection. Handlers had the option of re-conditioning the fruit or placing it into cold storage to ripen. After the soluble solids content was high enough to meet the minimum maturity requirements, the fruit was reinspected and the handler was billed for the original inspection and the reinspection. Relaxing the minimum maturity requirement to a 6.2 percent soluble solids level is expected to provide incentives for proper harvesting and handling of early fruit and to result in lower inspection costs. Thus, both large and small handlers should be able to benefit in the marketplace.

The Committee expressed concern that lowering the minimum maturity requirements to 6.2 percent soluble solids might result in a larger quantity of undersized fruit. However, the Committee expects growers to voluntarily test for minimum maturity and size before harvesting a field to limit harvesting unacceptable fruit.

Other alternatives have been suggested regarding the minimum maturity requirements, but will not adequately address the problem. The first alternative was to leave the regulation unchanged. However, this alternative will not address the changes in marketing conditions and in consumer acceptance of fruit with a lower level of soluble solids.

Another alternative considered was to regulate the current minimum maturity at the time of harvest. The Committee also considered utilizing the New Zealand ''Kiwi Start'' program which also tests for minimum maturity in the field at the time of harvest. These alternatives were not considered viable. The regulation of growers is not authorized under the Act.

Consideration was given to removing the 6.5 percent soluble solids minimum maturity requirement from the order and adding it to the California State Code of Regulations. This option was not acceptable to the Committee because of concerns regarding layers of regulation implementation, time, expenses, imports, and enforcement.

Another alternative discussed was to eliminate the minimum maturity requirement from the order. It was determined that there is still a need to have a maturity testing system in place to prevent the immature fruit from entering the market. Thus, this alternative was not adopted.

Utilizing a different testing method was also considered. Utilization of a dry weight test (total solids test) versus the currently used refractometer to measure maturity was discussed. This suggestion was not adopted because the test will be hard to implement, burdensome, and costly to the industry.

Finally, another alternative presented in the meeting was to increase the minimum maturity requirement. This alternative was not acceptable because it fails to recognize the recent findings that consumers find fruit with lower soluble solids acceptable.

This final rule relaxes the minimum maturity requirements under the kiwifruit marketing order and the import regulation. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers and importers. 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.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

Further, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the May 2, 2000, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. No such comments were received.

A proposed rule concerning this action was published in the **Federal Register** on July 31, 2000 (65 FR 46658). Interested persons were invited to submit written comments until August 30, 2000. Copies of the rule were mailed or sent via facsimile to all known interested parties. Finally, the rule was made available through the Internet by the Office of the Federal Register.

One comment was received during the comment period in response to the proposal. The commenter, representing the European Community, supports the relaxation of the minimum maturity standard to 6.2 percent soluble solids, as it will simplify commerce. The European Community also urged the United States to incorporate relevant international standards of the Economic Commission for Europe of the UN (UN/ECE) and of the Organization for Economic Co-operation and Development (OECD) into our regulations, including the U.S. Standards for Grades of Kiwifruit (7 CFR 51.2335 to 51.2340). These requests are outside the scope of this rulemaking action. However, these suggestions will be reviewed for further appropriate action in connection with this program.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: 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.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This rule should be in effect promptly because the 2000–2001 harvest in California is expected to begin soon; (2) these changes were unanimously recommended by the Committee and interested persons had an opportunity to provide input; (3) handlers are aware of this change which was recommended at a public meeting; and (4) a 30-day comment period was provided for in the proposed rule, and the comment received supported the reduced maturity requirement.

List of Subjects

7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 920 and 944 are amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR parts 920 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.302, paragraph (a)(3) is revised to read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

* * * * *

(3) *Maturity requirements.* Such kiwifruit shall have a minimum of 6.2 percent soluble solids at the time of inspection.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

3. In § 944.550, paragraph (a) is revised to read as follows:

§ 944.550 Kiwifruit import regulation.

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meets all the requirements of the U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that the kiwifruit shall be ''not badly misshapen,'' and an additional tolerance of 7 percent is provided for kiwifruit that is ''badly misshapen,'' and except that such kiwifruit shall have a minimum of 6.2 percent soluble solids. Such fruit shall be at least Size 45, which means there shall be a maximum of 55 pieces of fruit and the average weight of all samples in a specific lot must weigh at least 8 pounds (3.632 kilograms), provided that no individual sample may be less than 7 pounds 12 ounces (3.472 kilograms).

* * * * *

Dated: September 8, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–23496 Filed 9–8–00; 12:52 pm]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 19, 30, 40, 50, 51, and 70

RIN 3150–AG53

Revision of References to Section 202 of the Energy Reorganization Act

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: This final rule makes a number of minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act. The final rule is necessary to remove the footnotes that describe the provisions of Section 202 in order for all such references in the regulations to be consistent and complete. This final rule also corrects a typographical error in Part 19, makes other minor changes to conform Part 51 to other parts of this chapter, and reflects the abolishment of the Office for Analysis and Evaluation of Operational Data.

EFFECTIVE DATE: September 12, 2000.

FOR FURTHER INFORMATION CONTACT: Alzonia W. Shepard, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6864.

SUPPLEMENTARY INFORMATION:

Background

There are multiple references to Section 202 of the Energy Reorganization Act of 1974, in NRC regulations at 10 CFR 2.4, 30.4, 40.4, 50.2, 50.11, 70.4, and 70.11. These references are inconsistent in that some cite Section 202, while others describe provisions of Section 202 in a footnote. Those references that describe Section 202 are also incomplete because they do not reflect amendments to Section 202. Because of the inconsistency and incompleteness of the references to Section 202, and to avoid repeated changes to the regulations to reflect any amendments of Section 202, the NRC is amending the regulations to cite Section 202, rather than include text of Section 202 in a footnote.

The NRC is also making other minor conforming changes to its regulations: