

(4) In order to be valid, ballots must be executed in accordance with the instructions set forth on the ballot, and are to be returned to the Secretary's agent who will tally the ballots with such assistance from the committee as may be requested by the agent. Such ballots shall be postmarked by a date specified by the committee and approved by an agent of the Secretary.

(5) The names of the persons receiving the highest total number of votes for a particular position shall be submitted to the Secretary as the nominees for such positions. In the event of a tie vote, a ballot containing only the names of the candidates receiving the tied vote shall be mailed to all growers in the affected district.

(b) In the event of a vacancy as specified in § 920.26, the committee shall utilize the same procedure as prescribed in § 920.122(a)(1) through (a)(5) to fill such vacancy.

[57 FR 62160, Dec. 30, 1992]

§ 920.131 Redistricting of kiwifruit districts.

Pursuant to § 920.31(1) the districts are redefined as follows:

(a) *District 1* shall include the counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Glenn, Lake, Colusa, Sonoma, Yolo, Solano, Napa, Marin, Sacramento, Sierra, Nevada, Placer, El Dorado, Amador, and Butte (with the exception of that area set aside as "District 2").

(b) *District 2* shall include the 95948 postal zip code area known as Gridley in Butte County, and the area surrounding Gridley, incorporating the area located within the following boundaries: The area west of the Feather River; north of the Butte/Sutter County line; east of Pennington and Riley Roads; and south of Farris Road, Ord Ranch Road and Gridley Avenue.

(c) *District 3* shall include the counties of Sutter and Yuba.

(d) *District 4* shall include the counties of San Francisco, San Mateo, Santa Cruz, Contra Costa, Alameda, Santa Clara, Monterey, San Benito, San Joaquin, Calaveras, Alpine, Mono, Tuolumne, Stanislaus, Merced, Mariposa, Madera, and Fresno.

(e) *District 5* shall include Kings county and that portion of Tulare County north of Highway 198.

(f) *District 6* shall include Inyo County and that portion of Tulare County south of Highway 198 to Avenue 56, excluding the west side of Highway 65 between Highway 137 and Avenue 56.

(g) *District 7* shall include that portion of Tulare County of Tulare west of Highway 65 and between Highway 137 and Avenue 56.

(h) *District 8* shall include of Kern, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, San Diego, Los Angeles, Orange, Riverside, San Diego, Imperial Counties and that portion of Tulare County south of Avenue 56.

[60 FR 7432, Feb. 8, 1995]

§ 920.160 Reports.

(a) When requested by the Kiwifruit Administrative Committee, each shipper who ships kiwifruit, except as provided in paragraph (e) of this section, 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;

(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,"

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and “KISS/Shipment,” on or before November 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, shall be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish, and will contain the following information:

(1) The beginning inventory of the handler by size and container type;

(2) The quantity of fruit the handler lost in repack and repacked into other container types;

(3) The total domestic and export shipments of the handler by size and container type; and

(4) Any other adjustments which increase or decrease posted handler inventory.

(c) *Handler report of returned fruit.* After fruit is returned to a grower, each handler shall file with the committee, no later than five days from the date the fruit is returned, or such other time as the committee may establish, a Return Receipt of Kiwifruit to Grower Form.

(d) *KISS Price/Shipment report.* Each handler who ships 100,000 or more trays, or the equivalent thereof, per season, shall file the KISS Price/Shipment report with the committee. Handlers are not required to report organic kiwifruit shipments on this report. The handler shall file the report weekly following the first week he or she makes shipments and shall continue filing reports until he or she submits a final report for the season. Each such report shall be filed with the committee no later than 5:00 p.m. (the close of business) on the Tuesday immediately following the shipping week. For the purpose of this subsection, the shipping week is defined as Sunday through Saturday. The report shall show:

(1) The company name, contact person, and phone number of the handler;

(2) Weekly period covered by the report;

(3) Total fresh market shipments and gross f.o.b. sales of kiwifruit by pack style and size; and

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(4) Total fresh market shipments and gross f.o.b. sales to export markets by pack style and size.

(e) Handlers who file the KISS Price/Shipment report specified in paragraph (d) of this section are exempt from filing the shipping report specified in paragraph (a) of this section and the KISS/Shipment report specified in paragraph (b) of this section.

[50 FR 4856, Feb. 4, 1985, as amended at 52 FR 37130, Oct. 5, 1987; 59 FR 53565, Oct. 25, 1994; 61 FR 51576, Oct. 3, 1996; 67 FR 54332, Aug. 22, 2002; 74 FR 46309, Sept. 9, 2009]

§ 920.213 Assessment rate.

On and after August 1, 2008, an assessment rate of \$0.035 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

[73 FR 75540, Dec. 12, 2008]

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

(a) No handler shall ship any kiwifruit unless such kiwifruit meet the following requirements:

(1) *Grade requirements.* Fresh shipments of kiwifruit shall be at least KAC No. 1 quality.

(2) *Size Requirements.* Such kiwifruit shall be at least a minimum Size 45. Size 45 is defined as a maximum of 55 pieces of fruit in an 8-pound sample.

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

(4) *Pack Requirements.* (i) Kiwifruit packed in containers with cell compartments, cardboard fillers, or molded trays shall be of proper size for the cells, fillers, or molds in which they are packed. Such fruit shall be fairly uniform in size.

(ii) (A) Kiwifruit packed in any container shall be subject to the size designation, maximum number of fruit per 8-pound sample, and the size variation tolerance specified as follows: