

Commodity Loans and Purchases—10.051.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because CFSA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The amendments to 7 CFR part 729 set forth in this final rule do not contain information collection requirements that require clearance through the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35.

Announcement of the Quota

Section 358-1(a)(1) of the 1938 Act requires that the national poundage quota for peanuts for each of the 1991 through 1997 marketing years (MY's) be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such MY to domestic edible, seed, and related uses. Section 358-1(a)(1) further provides that the national poundage quota for a MY shall not be less than 1,350,000 st. The MY for 1995-crop peanuts runs from August 1, 1995, through July 31, 1996. Poundage quotas for the 1991-95 crops of peanuts were approved by 98.2 percent of peanut growers voting in a referendum conducted December 10 through 13, 1990.

The national poundage quota for the MY for the 1995 crop was established at 1,350,000 pounds, the statutory minimum, based on comparison with the following data:

ESTIMATED DOMESTIC EDIBLE, SEED, AND RELATED USES FOR 1995-CROP PEANUTS

Item	Farmer stock equivalent (short tons)
Domestic edible:	
Domestic prod. for domestic food use	984,000
On-farm and local sales	19,600
Seed	100,000

ESTIMATED DOMESTIC EDIBLE, SEED, AND RELATED USES FOR 1995-CROP PEANUTS—Continued

Item	Farmer stock equivalent (short tons)
Related uses:	
Crushing residual	130,100
Shrinkage and other losses	39,400
Segregation 2 and 3 loan transfers to quota loan	20,000
Total	1,293,100

Estimates of domestic production for domestic food use peanuts are developed in two steps. First, the farmer stock equivalent of peanuts for edible food use is projected by USDA's Interagency Commodity Estimates Committee (ICEC). Second, the ICEC food use estimate is reduced by the amount of peanut butter exports, edible peanut imports, and peanut butter imports since the ICEC food use estimate is an aggregate which includes peanut product exports and is derived from total supply that includes imports of peanuts and peanut butter. Peanut product exports are in most instances made from, or otherwise credited under section 359a(e)(1) of the 1938 Act as being made from, additional peanuts.

Farm use and local sales is estimated at 1 percent of ICEC's production estimate. This percentage reflects the average difference between USDA production estimates and Federal-State inspection data.

Seed use is based on projected 1996-crop planted acreage and a farmer stock equivalent seeding rate of 125 pounds per acre.

The *crushing residual* is the portion of farmer stock quota peanuts suitable only for the crushing market. The quota must be sufficient to provide for the shelling of both edible and crushing grades. Therefore, a crushing residual representing the farmer stock equivalent weight of crushing grade kernels shelled from quota peanuts is included under the "related uses" category. The crushing residual is estimated under the assumption that crushing peanuts will be approximately 12 percent, on a farmer stock basis, of total domestic food and seed production.

Shrinkage and other losses is an estimate of reduced kernel weight available for marketing as well as for kernel losses due to damage, fire, and spillage. These losses were estimated by multiplying a factor of 0.04 times domestic food use. The utilized factor is a CFSA estimate equal to the minimum

allowable shrinkage used in calculating a handler's obligation to export or crush additional peanuts as set forth in section 359a(d)(2)(iv) of the 1938 Act. Excessive moisture and weight loss due to foreign material in delivered farmer stock peanuts were not considered since such factors are accounted for at buying points and do not impact upon quota marketing tonnage.

Segregation 2 and 3 loan transfers to quota loan represent transfers of Segregation 2 and 3 peanuts from additional price support loan pools to quota loan pools. Such transfers occur when quota peanut producers have insufficient Segregation 1 peanuts to fill their quotas yet have Segregation 2 and 3 peanuts in additional loan pools which would have been eligible to be pledged as collateral for quota loans if it were not for quality problems. In such cases, for price support purposes only, these peanuts may be pledged as collateral for such loans. Regarding the disposition of such peanuts, the Commodity Credit Corporation will ensure that they are crushed for oil.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 729 is amended as follows:

PART 729—PEANUTS

1. The authority citation for 7 CFR part 729 continues to read as follows:

Authority: 7 U.S.C. 1301, 1357 et seq., 1372, 1373, 1375; 7 U.S.C. 1445c-3.

2. Section 729.214 is amended by adding paragraph (e) to read as follows:

§ 729.214 National poundage quota.

* * * * *

(e) The national poundage quota for peanuts for marketing year 1995 is 1,350,000 short tons.

Signed at Washington, DC, on February 2, 1995.

Bruce R. Weber,

Acting Administrator, Consolidated Farm Service Agency.

[FR Doc. 95-3043 Filed 2-7-95; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV94-920-4FR]

Kiwifruit Grown in California; Changes in District Boundaries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule redefines the eight district boundaries under the Federal marketing order for kiwifruit grown in California and makes the districts more equitable in terms of kiwifruit production. Kiwifruit growers in each of these districts elect members to represent their districts on the Kiwifruit Administrative Committee (committee), which locally administers the order. Production shifts have occurred within the California production area that have made the districts inequitable in terms of kiwifruit production.

EFFECTIVE DATE: February 8, 1995.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487-5901; or Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2526-S, Washington, DC 20090-6456, telephone (202) 720-5127.

SUPPLEMENTARY INFORMATION: This final 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." 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 (Department) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule 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 action.

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 principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity 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 Administrator of 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 California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than \$5,000,000, and small agricultural producers have been defined as those having annual receipts of less than \$500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

The committee met on September 27, 1994, and recommended by a vote of 8 to 1 to change the producer district boundaries.

The 12-member committee consists of one public member (and alternate), one member (and alternate) from each of the eight California districts, and three additional committee members and their alternates to be selected from the three districts with the three highest volumes of fresh shipments in the prior fiscal period. No more than a total of two members and their alternates shall represent any one district. With the exception of the public member and alternate, all members and their respective alternates are growers or employees of growers. The public member and alternate are nominated by the grower members and are selected with the approval of the Secretary.

Under Section 920.31 of the marketing order, the committee may, with the approval of the Secretary, redefine the districts into which the production area is divided. Any such changes shall reflect, insofar as practicable, shifts in kiwifruit

production within the districts and the production area.

Pursuant to section 920.12, the production area, which includes all counties in California, is divided into eight districts. District 1 includes Siskiyou, Modoc, Shasta, Lassen, Tehama, Plumas, and Butte counties with the exception of that area set aside as "District 2." District 2 includes the 95948 postal zip code area known as Gridley (and surrounding area), incorporating the area located within the following boundaries: the area west of the Feather River; north of the Butte/Sutter County line; east of Pennigton and Riley Roads; and south of Farris Road, Ord Ranch Road and Gridley Avenue. District 3 includes Yuba, Sutter, Sierra, Nevada, and Placer Counties. District 4 includes Del Norte, Humboldt, Trinity, Mendocino, Lake, Sonoma, Marin, Napa, Solano, Yolo, Colusa, and Glenn Counties. District 5 includes San Joaquin, Calaveras, Tuolumne, Merced, Stanislaus, Contra Costa, El Dorado, Amador, Sacramento, Alpine, San Francisco, Alameda, San Mateo, Santa Clara, Santa Cruz, San Benito, and Monterey Counties. District 6 includes Mono, Mariposa, Madera, Fresno, and Kings Counties. District 7 includes Tulare and Inyo Counties. District 8 includes San Luis Obispo, Santa Barbara, San Bernardino, Kern, Ventura, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties.

Over the past ten years, production shifts have occurred within the California production area that have made the districts unequitable in terms of kiwifruit production. At the time the current districts were established, the production per district was fairly equal, but a greater percentage of the California kiwifruit crop was produced in Southern California (District 8) and Central California (District 5). However, kiwifruit production has shifted so that a larger percentage of the crop is concentrated in the Gridley area in Northern California (District 2) and Tulare County in Central California (District 7).

The percentage of production for each of the eight current districts is shown in the table below based on the 1993/94 crop year. The percentage of production for the redefined districts based on the 1993/94 crop year is shown as a basis for comparison. The table outlines the inequity that currently exists among the

districts and how the redefined districts will rectify these inequities.

District	Current district (percent)	Rede-fined district (percent)
1	11.02	13.54
2	13.24	13.24
3	15.57	15.00
4	1.79	12.20
5	4.52	12.03
6	12.19	8.59
7	34.25	14.65
8	7.41	10.75

Under the new boundaries, county lines will be kept intact as boundaries except in Tulare and Butte Counties. This final rule will remove Glenn, Lake, Colusa, Sonoma, Yolo, Solano, Del Norte, Humboldt, Trinity, Mendocino, Napa, and Marin Counties from District 4 and add them to District 1. Sacramento, El Dorado and Amador Counties will be removed from District 5 and added to District 1. Nevada and Placer Counties will be removed from District 2 and added to District 1. Sierra County will be removed from District 3 and added to District 1. In Butte County, the town of Gridley will remain as a whole district—District 2. Calaveras, Tuolumne, Contra Costa, Alpine, San Francisco, and Alameda Counties will be removed from District 5 and added to District 4. Mono and Mariposa Counties will be removed from District 6 and added to District 4. Kings County will be removed from District 6 and added to District 5. Inyo County will be removed from District 7 and added to District 6. Tulare County will be divided into four districts. District 5 will include Tulare County north of Highway 198 to the Kings County boundary. District 6 will include Tulare County south of Highway 198 to Avenue 56, excluding the west side of Highway 65 between Highway 137 and Avenue 56. District 7 will include Tulare County west of Highway 65 between Highway 137 and Avenue 56, and District 8 will include Tulare County south of Avenue 56.

Committee members serve 2-year terms of office beginning August 1, with about one-half of the membership selected each year. Of the current members, seven members are serving terms of office that expire on July 31, 1995, and five members are serving terms of office that expire on July 31, 1996. The committee recommended that all of the present committee members continue to serve through July 31, 1995, and that this redistricting be effective for nominations for all members to serve for terms beginning August 1, 1995. One-half of the committee members

selected for terms of office beginning August 1, 1995, will serve one-year terms and the other half will serve two-year terms, with the determination of the terms for each member to be decided by lot.

The one voter in opposition to the recommendation wanted to allocate the additional three committee members and their alternates to the three districts with the highest number of growers rather than to the three districts with the highest production. However, the marketing order requires that the three additional members and alternates be allocated to the highest producing districts.

A proposed rule concerning this action was published in the **Federal Register** on December 9, 1994 [59 FR 63731], with a 30 day comment period ending January 9, 1995. No comments were received.

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

After consideration of all relevant matter presented, including the information and recommendations 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.

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) Nomination procedures begin in March for those members and alternates to be selected for terms beginning in 1995; 2) Handlers are aware of this rule, which was recommended by the committee at a public meeting; and 3) a 30-day comment period was provided for in the proposed rule and no adverse comments were received.

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. A new § 920.131 is added to read as follows:

§ 920.131 Redistricting of kiwifruit districts.

Pursuant to § 920.31 (l) 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.

Dated: February 2, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95–3148 Filed 2–7–95; 8:45 am]
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7 CFR Parts 1005, 1007, 1011, 1046

[DA–95–06]

Milk in the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville Marketing Areas; Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.