

Presidential Documents

Title 3—

Proclamation 5250 of October 5, 1984

The President

National High-Tech Week, 1984

By the President of the United States of America

A Proclamation

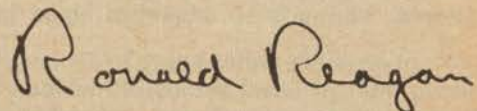
Throughout this century, the United States has been the world's leader in high technology innovation and development. Because the economy of this Nation closely is tied to technological advances, maintenance of this leadership is a national priority. Americans must build on our unmatched body of technical knowledge and on our entrepreneurial spirit to bring new and competitive products to the market.

Our youth are the key to maintaining this leadership. Young Americans must receive the educational opportunities necessary to grow and develop in a high technology environment. By providing these opportunities, our national commitment to high technology development will be translated into real progress benefitting future generations.

To focus public attention on the importance of high technology development, the Congress by House Joint Resolution 453, has designated the week of September 30 through October 6, 1984, as "National High-Tech Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of September 30 through October 6, 1984, as National High-Tech Week, and I call upon the people of the United States to celebrate this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.



Presidential Documents

Proclamation 3350 of October 2, 1964

National High-Tech Week, 1964

The President

By the President of the United States in Executive Order

A Proclamation

Throughout this century, the United States has been the leader in the development of science and technology. It is the responsibility of the Government to ensure that the United States continues to be the leader in the development of science and technology. It is the responsibility of the Government to ensure that the United States continues to be the leader in the development of science and technology.

The President is pleased to announce the observance of National High-Tech Week, 1964. This week is a time to recognize the contributions of scientists and engineers to the progress of the Nation. It is a time to celebrate the achievements of the men and women who have made the United States a leader in the world in the field of science and technology.

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JOHN F. KENNEDY
President of the United States

IN WITNESS WHEREOF, I have hereunto set my hand and the Great Seal of the United States at Washington, D.C., this 2nd day of October, 1964.

John F. Kennedy

Presidential Documents

Proclamation 5251 of October 5, 1984

National Spina Bifida Month, 1984

By the President of the United States of America

A Proclamation

Spina bifida is among the most common birth defects. Between one and two of every 1,000 babies in the United States are born with this problem. Infants with spina bifida may have incompletely developed spinal cords and suffer varying degrees of muscle paralysis and spine and limb deformities. Most develop hydrocephalus—a potentially dangerous buildup of fluid and pressure within the brain.

Thirty years ago the majority of children with spina bifida died. Today, thanks to Federal and private programs of biomedical research, medical and surgical management of spina bifida has advanced to the point that nearly all children survive. But some of these survivors face various potential problems, including lack of mobility, incontinence, and learning difficulties. Once again, research has provided answers: early surgical closure of spinal defects to reduce the development of infection and hydrocephalus; improved neurosurgical techniques for relieving pressure on the brain; better antibiotics for treating life-threatening infections; lighter braces to aid in mobility; and new techniques to control bladder function.

Further improvements may be expected to result from research supported by the Federal government's National Institute of Neurological and Communicative Disorders and Stroke and the National Institute for Child Health and Human Development. Voluntary agencies including the Spina Bifida Association of America, the March of Dimes Birth Defects Foundation, and the National Easter Seal Society are also involved.

For the many investigators supported by these organizations, the greatest challenge is to find the cause of this crippling birth defect and develop ways to prevent it. Scientists working toward these goals are studying the formation of the spinal cord and factors that might influence its abnormal development.

In order to focus attention on the needs of spina bifida children for long-term care and on the emotional and financial difficulties faced by their parents, the Congress, by Senate Joint Resolution 275, has designated October 1984 as "National Spina Bifida Month" and authorized and requested the President to issue a proclamation in observance of the month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 1984 as National Spina Bifida Month, and I call upon all government agencies, health organizations, and the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-26899

Filed 10-5-84; 4:33 pm]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 49, No. 197

Wednesday, October 10, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. AO 83-1]

Kiwifruit Grown in California; Order Regulating Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes a marketing agreement and order program to promote orderly marketing of California kiwifruit. The marketing order was favored by growers who produced more than the required two-thirds of the production represented in a referendum. The marketing agreement was signed by handlers representing more than the requisite 50 percent of total 1983-84 shipments. The program provides for a committee for local administration and authority for grade, size, quality, maturity, pack, and container regulations. The program would be financed by assessments levied on handlers of the commodity. The marketing order was considered at a public hearing in February 1984. The referendum was conducted by the Department by mail ballot August 31-September 10, 1984.

EFFECTIVE DATE: October 12, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202-447-5975).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing (hereinafter referred to as the "notice of hearing"), issued November 21, 1983, and published in the *Federal Register* (48 FR 54032) on November 30, 1983; Recommended Decision issued June 29, 1984, and published in the July

5, 1984, issue of the *Federal Register* (49 FR 27524), and a correction to the Recommended Decision which appeared in the July 12, 1984, issue of the *Federal Register* (49 FR 28408), and Secretary's Decision issued on August 21, 1984, and published in the August 24, 1984, issue of the *Federal Register* (49 FR 33670), and a correction published in the September 4, 1984, issue of the *Federal Register* (49 FR 35022).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

List of Subjects in 7 CFR Part 920

Marketing agreement and orders, Kiwifruit, California.

Findings and Determinations

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed marketing agreement and a proposed order, regulating the handling of kiwifruit grown in California.

Upon the basis of the record, it is found that:

(1) The order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order regulates the handling of kiwifruit grown in the production area in the same manner as, and is applicable only, to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The order is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of kiwifruit grown in the production area which make necessary different terms and

provisions applicable to different parts of such area; and

(5) All handling of kiwifruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary in the public interest to make this order effective not later than October 12, 1984. Harvest is expected to begin in early October, and any appropriate regulations established under the marketing order should apply to a substantial portion of 1984 crop shipments. A prompt effective date is necessary in order to provide the opportunity for timely recommendations for regulations by the Kiwifruit Administrative Committee.

In view of the foregoing, it is hereby found and determined that good cause exists for making this order effective October 12, 1984, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the *Federal Register*.

(c) *Determinations.* It is hereby determined that:

(1) The Marketing Agreement Regulating the Handling of kiwifruit grown in California, upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping kiwifruit covered by the proposed order) who during the period August 1, 1983, through July 31, 1984, handled not less than 50 percent of the volume of kiwifruit covered by this order, and

(2) The issuance of this order is favored or approved by producers who participated in a referendum on the question of its approval and who, during the period August 1, 1983, through July 31, 1984 (which has been deemed to be a representative period), have been engaged within the State of California in the production of kiwifruit for market and produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of kiwifruit grown in California shall be in conformity to and in

compliance with the following terms and conditions:

Part 7 CFR 920 is added to read as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Definitions

Sec.

- 920.1 Secretary.
- 920.2 Act.
- 920.3 Person.
- 920.4 Production area.
- 920.5 Kiwifruit.
- 920.6 Varieties.
- 920.7 Fiscal period.
- 920.8 Committee.
- 920.9 Grower.
- 920.10 Handler.
- 920.11 Handle.
- 920.12 District.
- 920.13 Pack.
- 920.14 Container.

Administrative Body

- 920.20 Establishment and membership.
- 920.21 Term of office.
- 920.22 Nomination.
- 920.23 Selection.
- 920.24 Failure to nominate.
- 920.25 Acceptance.
- 920.26 Vacancies.
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- 920.30 Powers.
- 920.31 Duties.
- 920.32 Procedure.
- 920.33 Expenses and compensation.
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Expenses and Assessments

- 920.40 Expenses.
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Regulations

- 920.50 Marketing policy.
- 920.51 Recommendations for regulation.
- 920.52 Issuance of regulations.
- 920.53 Modification, suspension, or termination of regulations.
- 920.54 Special purpose shipments.
- 920.55 Inspection and certification.

Reports

- 920.60 Reports.

Miscellaneous Provisions

- 920.61 Compliance.
- 920.62 Right of the Secretary.
- 920.63 Termination.
- 920.64 Proceeding after termination.
- 920.66 Duration of immunities.
- 920.67 Agents.
- 920.68 Derogation.
- 920.69 Personal liability.
- 920.70 Separability.

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Definitions

§ 920.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department of

whom authority has heretofore been delegated, or to whom authority may hereafter be delegated.

§ 920.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 *et seq.*).

§ 920.3 Person.

"Person" means an individual, partnership, corporation, association or any other business unit.

§ 920.4 Production area.

"Production area" means the State of California.

§ 920.5 Kiwifruit.

"Kiwifruit" means all varieties of *Actinidia chinensis*, Planch., commonly called kiwifruit, or kiwi, grown in the production area.

§ 920.6 Varieties.

"Varieties" means and includes all classifications or subdivisions of kiwifruit.

§ 920.7 Fiscal period.

"Fiscal period" is synonymous with fiscal year and means a 12-month period beginning on August 1 of one year and ending on the last day of July of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

§ 920.8 Committee.

"Committee" means the Kiwifruit Administrative Committee established pursuant to § 920.20

§ 920.9 Grower.

"Grower" is synonymous with producer and means any person who produces kiwifruit for the fresh market and who has a proprietary interest therein.

§ 920.10 Handler.

"Handler" is synonymous with shipper and means any person (except a common or contract carrier transporting kiwifruit owned by another person) who handles kiwifruit.

§ 920.11 Handle.

"Handle" and ship are synonymous and mean to sell, consign, deliver, or transport kiwifruit, or to cause kiwifruit to be sold, consigned, delivered, or transported, between the production area and any point outside thereof, or within the production area: *Provided*, That the term handle shall not include the sale of kiwifruit on the vine, the transportation within the production

area of kiwifruit from the vineyard where grown to a packing facility located within such area for preparation for market, or the delivery of such kiwifruit to such packing facility for such preparation.

§ 920.12 District.

"District" means the applicable one of the following described subdivisions of the production area or such other subdivision as may be prescribed pursuant to § 920.31:

(a) "District 1" shall include the counties of Siskiyou, Modoc, Shasta, Lassen, Tehama, Plumas, 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 (and the 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 Pennington and Riley Roads; and south of Farris Road, Ord Ranch Road and Gridley Avenue.

(c) "District 3" shall include the counties of Yuba, Sutter, Sierra, Nevada, and Placer.

(d) "District 4" shall include the counties Del Norte, Humboldt, Trinity, Mendocino, Lake, Sonoma, Marin, Napa, Solano, Yolo, Colusa, and Glenn.

(e) "District 5" shall include the counties of 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.

(f) "District 6" shall include the counties of Mono, Mariposa, Madera, Fresno and Kings.

(g) "District 7" shall include the counties of Tulare and Inyo.

(h) "District 8" shall include the counties of San Luis Obispo, Santa Barbara, San Bernardino, Kern, Ventura, Los Angeles, Orange, Riverside, San Diego and Imperial.

§ 920.13 Pack.

"Pack" means the specific arrangement, size, weight, count, or grade of a quantity of kiwifruit in a particular type and size of container, or any combination thereof.

§ 920.14 Container.

"Container" means a box, bag, crate, lug, basket, carton, package, or any other type of receptacle used in the packaging or handling of kiwifruit.

Administrative Body**§ 920.20 Establishment and membership.**

There is hereby established a Kiwifruit Administrative Committee consisting of 12 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. The 12 member committee shall be made up of the following: One public member (and alternate); one member (and alternate) from each of the eight California districts; three additional committee members and their alternates to be selected from the three districts with three highest productions based on the production in the prior fiscal period: *Provided*, That 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 shall be growers or employees of growers.

§ 920.21 Term of office.

The term of office of each member and alternate member of the committee shall be two years from the date of their selection and until their successor has qualified; provided, however, that of the first members of the committee, one-half shall serve for one year, and one-half shall serve for two years, with the determination of term of each member to be made by lot at the time of selection. Except as otherwise provided in this Order, the terms shall begin August 1 and end on the last day of July. Members and alternates may serve up to three consecutive two year terms on the committee.

§ 920.22 Nomination.

(a) *Initial Members.* Nominations for each of the initial members, with the exception of the public member and alternate, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by the committee responsible for promulgation of this part. Such nominations may be made by means of group meetings of the growers concerned in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in § 920.20.

(b) *Successor Members.* (1) The committee shall hold or cause to be held, not later than July 15 of each year, a meeting or meetings of growers in each district for the purpose of designating nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned.

(2) Only growers from a given district who are present at such nomination meetings, or represented at such meetings by duly authorized employees, may participate in the nomination and election of nominees for members and their alternates.

(3) A particular grower shall be eligible for membership as member or alternate member to fill only one position on the committee.

(c) The public member and alternate member shall be selected by the Secretary in his discretion.

§ 920.23 Selection.

From the nominations made pursuant to § 920.22, or from other qualified persons, the Secretary shall select the 12 members of the committee and an alternate for each such member, with the exception of the public member and alternate member, who shall be selected by the Secretary in his discretion.

§ 920.24 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 920.22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 920.20.

§ 920.25 Acceptance.

Each person to be selected by the Secretary as a member or as an alternate member of the committee shall, prior to such selection, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.

§ 920.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected, or, in the case of the public member and alternate, selected by the Secretary in his discretion, in the

manner specified in §§ 920.22 and 920.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 920.20.

§ 920.27 Alternate members.

An alternate member of the committee, during the absence of either the member for whom that individual is an alternate, or, in the case of districts with two grower positions on the committee, the other member and that member's alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate of such member shall act for him or her until a successor for such member is selected and has qualified.

§ 920.30 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;
- (c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ 920.31 Duties.

The committee shall have, among others, the following duties:

- (a) To select a chairperson and such other officers as may be necessary, and to define the duties of such officers;
- (b) To appoint such employees, agents and representatives as it may deem necessary, and to determine compensation and to define the duties of each;
- (c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period;
- (d) To keep minutes, books and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;
- (e) To prepare periodic statements of the financial operations of the committee and to make copies of each

such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling and marketing conditions with respect to kiwifruit;

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as may be requested;

(k) To investigate compliance with the provisions of this part;

(l) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the committee: *Provided*, That any such changes shall reflect, insofar as practicable, shifts in kiwifruit production within the districts and the production area.

§ 920.32 Procedure.

(a) Eight members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require the concurring vote of the majority of those present: *Provided*, That actions of the committee with respect to expenses and assessments, or recommendations for regulations pursuant to §§ 920.50 through 920.55, of this part shall require at least eight concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing: *Provided*, That if an assembled meeting is held, all votes shall be cast in person.

§ 920.33 Expenses and compensation.

(a) Except for the public member and alternate, the members of the committee, and alternates when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates, including the public alternate, at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

(b) The public member and alternate shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this

part, and shall receive per diem compensation established by the committee.

§ 920.34 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

Expenses and Assessments

§ 920.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in § 920.41.

§ 920.41 Assessments.

(a) As his or her pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period, each person who first handles kiwifruit during such period shall pay to the committee, upon demand, assessments on all kiwifruit so handled. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative. If a handler does not pay any assessment within the time prescribed by the committee, the assessment may be subject to an interest charge at a rate prescribed by the committee with the approval of the Secretary.

(b) The Secretary shall fix the rate of assessment to be paid by each such person during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred: *Provided*, That any assessment, excluding any amount collected pursuant to § 920.55(c), must be limited to a maximum assessment rate of three and one-half cents per flat, or the equivalent thereof. The Secretary may increase this maximum rate in each succeeding year after the initial year of

order operation by the Consumer Price Index (cost of living) for California as published by the Bureau of Labor Statistics. Such increase shall be applied to all kiwifruit handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purposes.

§ 920.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any sum paid by a person in excess of his or her pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person.

(2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used: (i) To defray expenses, during any fiscal period, prior to the time assessment income is insufficient to cover such expenses; (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses; (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; and, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its

members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his or her possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

Regulations

§ 920.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 920.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing marketing season. Such marketing policy report shall contain information relative to:

- (1) The estimated total production of kiwifruit within the production area;
- (2) The expected general quality and size of kiwifruit in the production area and in other areas;
- (3) The expected demand conditions for kiwifruit in different market outlets;
- (4) The expected shipments of kiwifruit produced in the production area and in areas outside the production area;
- (5) Supplies of competing commodities;
- (6) Trend and level of consumer income;
- (7) Other factors having a bearing on the marketing of kiwifruit; and
- (8) The type of regulations expected to be recommended during the marketing season.

§ 920.51 Recommendations for regulation.

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of kiwifruit in the manner provided in § 920.52, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for kiwifruit during the period or periods when it is proposed that such regulations should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§ 920.52 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of kiwifruit whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

- (1) Limit, during any period or periods, the shipment of any particular grade, size, quality, maturity, or pack, or any combination thereof, of any variety or varieties of kiwifruit grown in the production area;
- (2) Limit the shipment of kiwifruit by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity during any period when season average prices are expected to exceed the parity level;
- (3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of kiwifruit.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ 920.53 Modification, suspension, or termination of regulations.

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulations issued pursuant to § 920.52 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of kiwifruit in order to effectuate the declared policy of the act, the Secretary shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, the Secretary shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ 920.54 Special purpose shipments.

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 920.41, 920.52, 920.53 and 920.55 and the regulations issued thereunder, handle kiwifruit: (1) For consumption by charitable institutions; (2) for

distribution by relief agencies; or (3) for commercial processing into products.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements, under or established pursuant to §§ 920.41, 920.52, 920.53 or 920.55, the handling of kiwifruit: (1) To designated market areas; (2) for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects); or, (3) in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent kiwifruit handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle kiwifruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the kiwifruit will not be used for any purpose not authorized by this section.

§ 920.55 Inspection and certification.

(a) Whenever the handling of any variety of kiwifruit is regulated pursuant to §§ 920.52, or 920.53, each handler who handles kiwifruit shall, prior thereto, cause such kiwifruit to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation: *Provided*, That inspection and certification shall not be required for kiwifruit which previously have been so inspected and certified if such prior inspection was performed within such period as may be established pursuant to paragraph (b) of this section. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the committee a copy of the certificate of inspection issued with respect to such kiwifruit. The committee may, with the approval of the Secretary, prescribe rules and regulations waiving the inspection requirements of this section where it is determined that inspection is not available: *Provided*, That all shipments made under such waiver shall comply with all regulations in effect.

(b) The committee may, with the approval of the Secretary, establish a period prior to shipment during which

the inspection required by this section must be performed.

(c) The committee may enter into an agreement with the Federal and Federal-State Inspection Services with respect to the costs of the inspection required by paragraph (a) of this section, and may collect from handlers their respective pro rata shares of such costs.

Reports

§ 920.60 Reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of kiwifruit as follows:

- (1) The name of the shipper and the shipping point;
- (2) The car or truck license number (or name of the trucker), and identification of the carrier;
- (3) The date and time of departure;
- (4) The number and type of containers in the shipment;
- (5) The quantities shipped, showing separately the variety, size and grade of the fruit;
- (6) The destination;
- (7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(c) Each handler shall maintain for at least two succeeding fiscal years, such records of the kiwifruit received and disposed of by such handler as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: *Provided*, That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handler furnishing the information, is not disclosed but may be revealed to any

extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

Miscellaneous Provisions

§ 920.61 Compliance.

(a) Except as provided in this part, no person shall handle kiwifruit, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part; and no person shall handle kiwifruit except in conformity with the provisions of this part and the regulations issued under this part.

(b) For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives shall have access to any handler's premises during regular business hours, and shall be permitted at any such times to inspect such premises and any kiwifruit held by such handler, and any and all records of the handler with respect to his or her acquisition, sales, uses and shipments of kiwifruit. Each handler shall furnish all labor and equipment necessary to make such inspections.

§ 920.62 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 920.63 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the volume of

the kiwifruit which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of August subsequent to the announcement thereof by the Secretary.

(d) The committee shall consider all petitions from growers submitted to it for termination of this part provided such petitions are received by the committee prior to February 1 of the then current fiscal period. Upon recommendation of the committee received not later than April 1 of the then current fiscal period, the Secretary shall conduct a referendum among the growers prior to July 15 of such fiscal period to ascertain whether continuance of this part is favored by producers.

(e) The Secretary shall conduct a referendum within the period beginning May 15, 1990, and ending July 15, 1990, to ascertain whether continuance of this part is favored by the growers as set forth in paragraph (c) of this section. The Secretary shall conduct such a referendum within the same period of every sixth fiscal period thereafter.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 920.64 Proceeding after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee of the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 920.65 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 920.66 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 920.67 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

§ 920.68 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 920.69 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 920.70 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective Date: October 12, 1984.

Signed at Washington, D.C. on October 2, 1984.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 84-26650 Filed 10-4-84; 12:30 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Part 214****Nonimmigrant Classes; Ports of Entry; Great Falls, MT**

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule removes Great Falls, Montana, from the list of ports of entry at 8 CFR 214.2(c)(1) where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States as a direct transit without a visa. This change is made because the Service has no inspection personnel assigned to Great Falls, and international commercial carriers no longer service that port of entry.

EFFECTIVE DATE: October 10, 1984.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Steven M. Hurst, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-4034.

SUPPLEMENTARY INFORMATION: This final rule removes Great Falls, Montana from the list of ports designated at 8 CFR 214.2(c)(1) as ports where, except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made. The Service no longer maintains inspection personnel at Great Falls International Airport, Great Falls, Montana. In recent years the number of transit without visa applicants at Great Falls has been low, averaging approximately five to ten annually. All such applicants arrived, after preinspection by the Service in Calgary,

Alberta, Canada, on Western Airlines, a carrier that serves other ports listed at 8 CFR 214.2(c)(1). This carrier, the single international commercial carrier serving Great Falls, discontinued arrivals from Canada to that port in early September 1984.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency management. This is not a rule within the definition of section 1(a) of E.O. 12291.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Passports and visas, Port of entry, Travel restrictions.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES**§ 214.2 [Amended]**

In § 214.2, paragraph (c)(1) is amended by removing "Great Falls, MT" from the listing of ports of entry authorized to accept transit without visa applications for admission.

(Sec. 214 of the Immigration and Nationality Act, as amended (8 U.S.C. 1184))

Dated: October 3, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-26749 Filed 10-9-84; 8:45 am]

BILLING CODE 4410-10-M

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Part 1010****Export of Noncomplying, Misbranded, Banned Products Subject to Regulation Under Consumer Product Safety Act or Federal Hazardous Substances Act; Statement of Policy and Interpretation**

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy and interpretation.

SUMMARY: The Consumer Product Safety Commission issues a statement of policy and interpretation concerning products which fail to comply with an applicable consumer product safety standard or