

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AB96

#### Common Crop Insurance Regulations, Macadamia Nut Crop Insurance Provisions; Correction

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Correcting amendment; correction.

**SUMMARY:** This document contains corrections to the correcting amendment which was published September 27, 2010 (75 FR 59057). The regulation, as here pertinent, related to the insurance of macadamia nuts.

**DATES:** *Effective Date:* January 25, 2011.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Background

The correcting amendment that is the subject of this correction revised the Macadamia Nut Crop Insurance Provisions to specify the correct crop year to which it was applicable. It was published September 27, 2010 (75 FR 59057).

##### Need for Correction

As published, the Background of the correcting amendment contained an error which may prove to be misleading and which needs to be clarified. The sentence in the background stated "The 2011 contract change date for the Macadamia Nut Crop Insurance

Provisions is August 31, 2010, which is prior to April 30, 2011." This sentence should have stated "The 2011 contract change date for the Macadamia Nut Crop Insurance Provisions is August 31, 2009, which is prior to April 30, 2010."

#### Correction of Publication

In FR Doc. 2010-23884, on page 59057 in the issue of September 27, 2010, make the following correction, in the **SUPPLEMENTARY INFORMATION** section. On page 59057 in the second column, correct the third sentence of the second paragraph in the Background section under "Need for Correction" to read: "The 2011 contract change date for the Macadamia Nut Crop Insurance Provisions is August 31, 2009, which is prior to April 30, 2010."

Signed in Washington, DC, on January 14, 2011.

**William J. Murphy,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 2011-1423 Filed 1-24-11; 8:45 am]

**BILLING CODE 3410-08-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 920

[Doc. No. AO-FV-08-0174; AMS-FV-08-0085; FV08-920-3 C]

#### Kiwifruit Grown in California; Order Amending Marketing Order No. 920; Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to the final rule that was published in the **Federal Register** on Tuesday, June 29, 2010 (75 FR 37288). The final rule amended Marketing Order No. 920 (order), which regulates the handling of kiwifruit grown in California. The amendments redefined the grower districts into which the production area is divided and reallocated committee membership among the districts. This rule corrects the final rule by removing order language regarding selection of members and alternates that was inadvertently kept in after the removal of the language as a conforming change was approved by growers in a referendum.

**DATES:** Effective January 25, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Laurel May or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; *Telephone:* (202) 720-2491, *Fax:* (202) 720-8938, *E-mail:* [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov) or [Kathy.Finn@ams.usda.gov](mailto:Kathy.Finn@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This document provides a correcting amendment to Marketing Order 920 (7 CFR part 920). Specifically, this rule removes language from § 920.21—"Term of Office" that refers to the selection of three committee members and alternates to represent the districts with the highest shipping volumes.

The Kiwifruit Administrative Committee (committee) is comprised of eleven grower members and eleven alternates, as well as one public member and alternate. Prior to the recent order amendment, the regulated production area was divided into eight grower districts. One grower member and one alternate were selected to represent each of the eight districts on the committee. Three members and alternates were selected to provide additional representation for the three districts with the highest shipping volume.

A final rule was published on June 29, 2010 (75 FR 37288) that amended section 920.12 of the order to provide for only three grower districts, with all eleven grower member and alternate seats allocated among the districts based on production history. A conforming change was necessary in section 920.21, to delete references to additional members and alternates for the districts with the highest shipping volume as this was no longer relevant under the modified district makeup. Although this conforming change was approved, along with the district changes to section 920.12, AMS inadvertently kept the language in 920.21 that was no longer relevant. This correcting amendment removes that language.

#### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

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. Revise § 920.21 to read as follows:

### § 920.21 Term of office.

The term of office of each member and alternate member of the committee shall be for two years from the date of their selection and until their successors are selected. The terms of office shall begin on August 1 and end on the last day of July, or such other dates as the committee may recommend and the Secretary approve. Members may serve up to three consecutive 2-year terms not to exceed 6 consecutive years as members. Alternate members may serve up to three consecutive 2-year terms not to exceed 6 consecutive years as alternate members.

Dated: January 19, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–1426 Filed 1–24–11; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 927

[Doc. No. AMS–FV–10–0072; FV10–927–1 IR]

#### Pears Grown in Oregon and Washington; Amendment To Allow Additional Exemptions

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This rule adds an exemption to the marketing order for Oregon-Washington pears that provides for the sale of fresh pears directly to consumers without regard to regulation. The marketing order regulates the handling of pears grown in Oregon and Washington. Local administration of the marketing order for the fresh pear industry is provided by the Fresh Pear Committee (Committee). For each customer, this rule exempts consumer-direct sales of up to 220 pounds of fresh pears per transaction, for home use only, made directly at orchards, packing facilities, roadside stands, or farmers' markets without regard to the marketing order's assessment, reporting, handling, and inspection requirements. This

action is intended to provide regulatory flexibility to small pear handlers, while facilitating the sale of fresh, local pears directly to consumers.

**DATES:** Effective January 26, 2011; comments received by March 28, 2011 will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: <http://www.regulations.gov>. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.regulations.gov>. All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

#### FOR FURTHER INFORMATION CONTACT:

Teresa Hutchinson or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Portland, Oregon; Telephone: (503) 326–2724, Fax: (503) 326–7440, or E-mail:

*Teresa.Hutchinson@ams.usda.gov* or *GaryD.Olson@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Antoinette.Carter@ams.usda.gov*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington, 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 (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice

Reform. This rule is not intended to have retroactive effect.

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 USDA 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, USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

For each customer, this rule exempts consumer-direct sales of up to 220 pounds of fresh pears per transaction, for home use only and made directly at orchards, packing facilities, roadside stands, or farmers' markets without regard to the marketing order's assessment, reporting, handling, and inspection requirements. This action is intended to provide regulatory flexibility to small pear handlers, while facilitating the sale of fresh, local pears directly to consumers.

Section 927.65(a) provides the authority to exempt from regulation pears for consumption by charitable institutions and distribution by relief agencies. Section 927.65(b) provides the authority whereby certain quantities of pears or types of pear shipments may be exempted from any or all provisions of the order.

On April 22, 2010, the Committee unanimously recommended adding an exemption to the order for the sale of small quantities of home-use only pears directly to consumers. Other exemptions under the order include § 927.120 which provides for the regulation free distribution of pears for charitable or by-product use, and § 927.121, which provides an exemption for mail order sales of gift packages that are shipped directly to consumers. In order to facilitate the direct sale of local, fresh pears to consumers while relaxing the regulatory burden on small handlers, the Committee believes that specified quantities of pears sold at orchards, packing facilities, roadside stands, and farmers' markets should also be exempt from regulation.

Some grower handlers have traditionally sold a portion of their pear harvest directly to consumers from their