§ 330.708 ICTAP eligibility period.

(a) ICTAP eligibility begins on the date the employee or former employee meets the definition of *displaced* in § 330.702.

(b) ICTAP eligibility ends 1 year from the date of:

(1) Separation by RIF under part 351 of this chapter;

(2) Removal by the agency under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (*e.g.,* a directed reassignment or a change in duty station);

(3) Agency certification that it cannot place the employee under part 353 of this chapter; or

(4) OPM notification that an employee's disability annuity has been, or will be, terminated.

(c) ICTAP eligibility ends 2 years after RIF separation if eligible under subpart D of this part.

(d) ICTAP eligibility also ends on the date the eligible:

(1) Receives a notice rescinding, canceling, or modifying the notice which established ICTAP eligibility so that the employee no longer meets the definition of *displaced* in § 330.702;

(2) Separates from the agency for any reason before the RIF or removal effective date; or

(3) Is appointed to a career, career-conditional, or excepted appointment without time limit in any agency at any grade or pay level.

(e) OPM may extend the eligibility period when an ICTAP eligible does not receive a full 1 year (or 2 years under subpart D of this part) of eligibility, for example, because of administrative or procedural error.

(f) ICTAP eligibility for a former Military Reserve Technician or National Guard Technician described in § 330.702 ends when the Technician no longer receives the special disability retirement annuity under 5 U.S.C. 8337(h) or 8456.

§ 330.709 Establishing ICTAP selection priority.

ICTAP selection priority for a specific vacancy begins when:

(a) The ICTAP eligible submits all required application materials, including proof of eligibility, within agency-established timeframes; and

(b) The agency determines the eligible is well-qualified for the vacancy.

§ 330.710 Proof of eligibility.

(a) The ICTAP eligible must submit a copy of one of the documents listed under paragraphs (1) or (3) through (6) of the definition of *displaced* in § 330.702, as applicable, to establish selection priority under § 330.709. To establish selection priority under the paragraph (2) of the definition of *displaced* in § 330.702, the ICTAP eligible must submit documentation of the separation or removal, as applicable, for example, the Notification of Personnel Action, SF 50.

(b) The ICTAP eligible may also submit a copy of the RIF notice with an offer of another position accompanied by the signed declination of that offer. The RIF notice must state that declination of the offer will result in separation under RIF procedures.

§ 330.711 OPM's role in ICTAP.

OPM has oversight of ICTAP and may conduct reviews of agency compliance and require corrective action at any time.

Subpart H—[Reserved]

Subpart I—[Reserved]

Subpart J—Prohibited Practices

§ 330.1001 Withdrawal from competition.

An applicant for competitive examination, an eligible on a register, and an officer or employee in the executive branch of the Government may not persuade, induce, or coerce, or attempt to persuade, induce, or coerce, directly or indirectly, a prospective applicant to withhold filing application, or an applicant or eligible to withdraw from competition or eligibility, for a position in the competitive service, for the purpose of improving or injuring the prospects of an applicant or eligible for appointment. OPM will cancel the application or eligibility of an applicant or eligible who violates this section, and will impose such other penalty as it considers appropriate.

Subpart K—[Reserved]

Subpart L—[Reserved]

PART 335—PROMOTION AND INTERNAL PLACEMENT

■ 4. The authority citation for part 335 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3330; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 5 U.S.C. 3304(f), and Pub. L. 106–117.

■ 5. In § 335.105, remove "§ 330.707 of subpart G" and add, in its place, "part 330, subpart A".

PART 337—EXAMINING SYSTEM

■ 6. The authority citation for part 337 continues to read as follows:

Authority: 5 U.S.C. 1104(a), 1302, 2302, 3301, 3302, 3304, 3319, 5364; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; and 45 FR 18365, Mar. 21, 1980; 116 Stat. 2135, 2290; and 117 Stat. 1392, 1665.

§ 337.203 [Amended]

■ 7. In § 337.203, remove "subpart G" and add, in its place, "subpart A".

PART 410—TRAINING

■ 8. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.;* E.O. 11348, 3 CFR, 1967 Comp., p. 275.

§ 410.307 [Amended]

■ 9. In § 410.307:

■ a. In paragraph (c)(3), remove the phrase "5 CFR 330.604(b) and (f)" and add in its place the phrase, "5 CFR 330.602".

■ b. In paragraph (c)(4), remove the phrase "5 CFR 330.602" and add in its place the phrase, "5 CFR part 330, subpart F".

[FR Doc. 2010–27638 Filed 11–2–10; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Doc. No. AMS–FV–08–0085; FV08–920–3 FIR]

Kiwifruit Grown in California; Changes to District Boundaries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that removed the grower district boundaries contained in the administrative rules and regulations of the kiwifruit marketing order (order). The interim rule removed regulatory language referring to eight grower districts from the order's administrative rules and regulations to make them consistent with the recently amended order provisions, which now provide for three grower districts.

DATES: *Effective Date:* Effective November 4, 2010.

FOR FURTHER INFORMATION CONTACT: Laurel May or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (202) 720–2491, Fax: (202) 720–8938; or E-mail:

Laurel.May@ams.usda.gov or *Kathy.Finn@ams.usda.gov*.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or 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. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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 order was recently amended by redefining the grower districts into which the California kiwifruit production area is divided. Previously, there were eight grower districts defined in the order. Due to shifts in acreage and the consolidation of grower entities within the production area, the production area is now divided into three grower districts. Language in § 920.131 of the order's administrative rules and regulations provided the specific boundaries for eight grower districts, but that language is not consistent with the amended order.

In an interim rule published in the **Federal Register** on July 23, 2010, and effective on August 1, 2010, § 920.131 specifying the boundaries for eight grower districts was removed. The boundaries for the three grower districts under the amended order are provided in § 920.12.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so 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.

Small agricultural service firms, which include handlers regulated under the order, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000. Small agricultural growers have been defined as those with annual receipts of less than $750,000.

There are approximately 30 handlers of kiwifruit subject to regulation under the order and approximately 220 growers of kiwifruit in the regulated area. Information provided by the committee indicates that the majority of California kiwifruit handlers and growers would be considered small entities according to the SBA's definition.

The order regulates the handling of kiwifruit grown in the State of California. At the time the order was promulgated, kiwifruit acreage was more widespread throughout California and there were many more growers involved in kiwifruit production. The order originally provided for eight grower districts within the production area, with one membership seat apportioned to each district, and an additional seat reallocated annually to each of the three districts with the highest production in the preceding year. The structure was designed to afford equitable representation for all districts on the committee.

Planted acreage has been gradually concentrated into two main regions in recent years. That, and the decline in the number of growers over time, prompted consolidation of the districts and reallocation of grower member seats through the formal rulemaking process. Under the amended order, the production area is divided into three grower districts, and committee membership is allocated proportionately among the districts based upon the previous five years' average production for each district. These changes are expected to better reflect the current composition of the industry.

This rule continues in effect the action that removed § 920.131 from the order's administrative rules and regulations, effective August 1, 2010. The section specified the boundaries for eight grower districts. As such, it would be inconsistent with the amended § 920.12, which provides the boundaries for three grower districts.

The changes in the interim rule were necessary to conform with amendments to the order, which became effective on August 1, 2010. No alternatives to this action were deemed appropriate.

Regarding the impact of this action on the affected entities, both large and small entities are expected to benefit from the change. The revision in the interim rule provides consistency between the amended marketing order and its administrative rules and regulations. The order amendment is expected to ensure that the interests of all large and small entities are represented appropriately during committee deliberations.

Committee meetings in which regulatory recommendations and other decisions are made are open to the public. All members are able to participate in committee deliberations, and each committee member has an equal vote. Others in attendance at meetings are also allowed to express their views.

At committee meetings held on January 30, 2008, April 22, 2008, and July 9, 2008, the committee voted unanimously to recommend amending the order by revising the grower districts into which the production area is divided. The committee's recommendations were submitted to AMS on August 15, 2008. Growers approved the amendment to redefine district boundaries in a referendum held in March 2010. The amendment became effective August 1, 2010.

This rule will not impose any additional reporting or recordkeeping requirements on large or small kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

Comments on the interim rule were required to be received on or before September 21, 2010. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *www.regulations.gov* and type the following docket number into the keyword search section: FV08–920–3 IR. Follow the link provided in the "Results" section of the page.

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E–Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that

finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 43038; July 23, 2010), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule that amended 7 CFR part 920 and that was published at 75 FR 43038 on July 23, 2010, is adopted as a final rule without change.

Dated: October 25, 2010.

Robert C. Keeney,

Acting Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2010–27788 Filed 11–2–10; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Doc. No. AMS–FV–10–0057; FV10–993–1 FR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Prune Marketing Committee (Committee) for the 2010–11 and subsequent crop years from $0.16 to $0.27 per ton of salable dried prunes handled. The Committee locally administers the marketing order that regulates the handling of dried prunes grown in California. Assessments upon dried prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* November 4, 2010.

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Andrea.Ricci@ams.usda.gov* or *Kurt.Kimmel@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: *Antoinete.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 110 and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes 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 (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 2010, and continue until amended, suspended, or terminated.

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. Such 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.

This rule increases the assessment rate established for the Committee for the 2010–11 and subsequent crop years from $0.16 to $0.27 per ton of salable dried prunes handled.

The California dried prune marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009–10 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 24, 2010, and unanimously recommended 2010–11 expenditures of $58,353 and an assessment rate of $0.27 per ton of salable dried prunes. In comparison, last year's budgeted expenditures, as amended in March of 2010, were $57,756. The assessment rate of $0.27 is $0.11 higher than the rate currently in effect.

The Committee recommended the higher assessment rate based on a production estimate of 150,000 tons of salable dried prunes for this year, which is substantially less than the 165,488 tons produced last year. At this assessment rate, the expected assessment income for the 2010–11 crop year is $40,500. The Committee believes 2010–11 assessment income, plus extra assessment income carried in from the 2009 crop year and interest income, will be adequate to cover its estimated expenses of $58,353.

The Committee's budget of expenses of $58,353 includes a twenty percent increase in personnel expenses, and a nine percent decrease in operating expenses. Combined personnel and operational expenses are about eleven percent higher than last year, or about $42,511. The Committee also included $15,842 for contingencies, which is substantially less than the $19,526 included for last year's budget. Most of the Committee's expenses reflect its portion of the joint administration costs of the Committee and the California Dried Plum Board (CDPB). Based on the Committee's reduced activities in recent years, it is funding only five percent of the shared expenses of the two programs. This funding level is similar to that of last year.

The major expenditures recommended by the Committee for the 2010–11 year include $31,781 for salaries and benefits, $10,730 for