

expenditures are projected to be \$1,041,000 and \$1,189,000 respectively. We estimate this rule would yield an additional \$270,000 during FY 2003 that will offset increased program operating costs. The program will take additional cost cutting measures to eliminate the remaining deficit.

AMS used the fees currently charged as a base for calculating the new fee schedule for FY 2003. The fees set forth in Sec. 97.175 would be increased. The application fee will be increased from \$320 to \$432, the search fee from \$2,385 to \$3,220, and the issuance fee from \$320 to \$432. The fees for reviving an abandoned application, correcting or re-issuance of a certificate are increased from \$320 to \$432. The charge for granting an extension for responding to a request is increased from \$55 to \$74. The hourly charge for any other service not specified will increase from \$66 to \$89. The fee for appeal to the Secretary (refundable if appeal overturns the Commissioner's decision) is increased from \$3,050 to \$4,118. Reproduction of records, drawings, certificates, exhibits or printed materials, late payment, and replenish of seeds will increase by 35 percent. These fee increases are necessary to recover the costs of this fee-funded program.

The Plant Variety Protection Advisory Board has been informed of cost increases, including anticipated salary increases, and consulted on a fee increase in November 2001. The Board recommended that fees be increased. This rule makes the minimum changes in the regulations to implement the recommended increased fees to maintain the program as a fee-funded program.

#### Summary of Public Comment

A notice of the proposed rule was published in the **Federal Register** (67 FR 61545) on October 1, 2002. A 30-day comment period was provided to allow interested persons the opportunity to respond to the proposal, including any regulatory and informational impact of this action on small business.

The only comment received in response to the proposed revised regulatory text questioned whether the 35 percent increase of the existing fee schedule was truly warranted. Every year, AMS reviews its user fee financed programs to determine their fiscal condition. In the most recent review of the PVP program, the cost analysis indicated that the existing fee schedule will not generate sufficient revenues to cover program services and obligations while maintaining an adequate program reserve balance. We estimate the final rule would yield an additional \$270,000

during FY 2003, offsetting increased program operating costs, salaries and benefits, and technology improvements. From October 1, 2001 to September 30, 2002, the PVP program has reduced the backlog by 21 percent. With sufficient funds to cover overall operating costs, the program will continue to improve the efficiency and turnaround time in the processing of plant variety protection requests.

#### List of Subjects in 7 CFR Part 97

Plants, seeds.

For reasons set forth in the preamble, 7 CFR part 97 is amended as follows.

#### PART 97—PLANT VARIETY AND PROTECTION

1. The authority citation for part 97 continues to read as follows:

**Authority:** 7 U.S.C. 2321 *et seq.*

2. Section 97.175 is revised to read as follows:

##### § 97.175 Fees and charges.

The following fees and charges apply to the services and actions specified in this section:

- (a) Filing the application and notifying the public of filing—\$432.00.
- (b) Search or examination—\$3,220.00.
- (c) Allowance and issuance of certificate and notifying public of issuance—\$432.00.
- (d) Revive an abandoned application—\$432.00.
- (e) Reproduction of records, drawings, certificates, exhibits, or pointed material (copy per page of material)—\$1.50.
- (f) Authentication (each page)—\$1.50.
- (g) Correcting or re-issuance of a certificate—\$432.00.
- (h) Recording assignments (per certificate/application)—\$38.00.
- (i) Copies of 8 x 10 photographs in color—\$38.00.
- (j) Additional fee for reconsideration—\$432.00.
- (k) Additional fee for late payment—\$38.00.
- (l) Additional fee for late replenishment of seed—\$38.00.
- (m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision)—\$4,118.00.
- (n) Granting of extensions for responding to a request—\$74.00.
- (o) Field inspections by a representative of the Plant Variety Protection Office, made at the request of the applicant, shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulation.
- (p) Any other service not covered in this section will be charged for at rates

prescribed by the Commissioner, but in no event shall they exceed \$89.00 per employee-hour.

Dated: January 6, 2003.

**A.J. Yates,**

*Administrator.*

[FR Doc. 03-452 Filed 1-9-03; 8:45 am]

**BILLING CODE 3410-02-M**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 02-130-1]

#### Oriental Fruit Fly; Designation of Quarantined Area

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

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

**SUMMARY:** We are amending the Oriental fruit fly regulations by quarantining a portion of Los Angeles and Orange Counties, CA, and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of Oriental fruit fly into noninfested areas of the United States.

**DATES:** This interim rule was effective January 6, 2003. We will consider all comments that we receive on or before March 11, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-130-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-130-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-130-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to

help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, vegetables, and berries. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93-10 (referred to below as the regulations), were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. Section 301.93-3(a) provides that the Administrator will list as a quarantined area each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Oriental fruit fly is present, or that the Administrator considers necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly has been found. The regulations impose restrictions on the interstate movement of regulated articles from the quarantined areas. Quarantined areas are listed in § 301.93-3(c).

Less than an entire State will be designated as a quarantined area only if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles and (2) the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Oriental fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service reveal that a portion of Los Angeles and

Orange Counties, CA, is infested with the Oriental fruit fly.

State agencies in California have begun an intensive Oriental fruit fly eradication program in the quarantined area in Los Angeles and Orange Counties. Also, California has taken action to restrict the intrastate movement of regulated articles from the quarantined area.

Accordingly, to prevent the spread of the Oriental fruit fly into noninfested areas of the United States, we are amending the regulations in § 301.93-3 by designating a portion of Los Angeles and Orange Counties, CA, as a quarantined area for the Oriental fruit fly. The quarantined area is described in the rule portion of this document.

##### **Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the Oriental fruit fly from spreading to noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

##### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the Oriental fruit fly regulations by adding a portion of Los Angeles and Orange Counties, CA, to the list of quarantined areas. The regulations restrict the interstate movement of regulated articles from a quarantined area.

Within the quarantined area there are approximately 389 small entities that may be affected by this rule. These include 351 fruit sellers, 3 growers, 33 nurseries, 1 certified farmers' market, and 1 swapmeet. These 389 entities comprise less than 1 percent of the total number of similar entities operating in the State of California. Additionally, these small entities sell regulated articles primarily for local intrastate, not interstate movement, so the effect, if

any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

##### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

##### **Executive Order 12988**

This interim rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

##### **National Environmental Policy Act**

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The site-specific environmental assessment provides a basis for the conclusion that the implementation of integrated pest management to eradicate the Oriental fruit fly will not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for review in our reading room (information on the

location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice). In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**. The environmental assessment and finding of no significant impact may also be viewed on the Internet at <http://www.aphis.usda.gov/ppd/es/ppq/lamiroff.pdf>.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 is revised to read as follows:

**Authority:** 7 U.S.C. 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, 7754, and 7760; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.93–3, paragraph (c) is amended by adding, under the heading “CALIFORNIA”, an entry for Los Angeles and Orange Counties to read as follows:

#### § 301.93–3 Quarantined areas.

\* \* \* \* \*

(c) \* \* \*

#### California

*Los Angeles and Orange Counties.* That portion of Los Angeles and Orange Counties in the La Mirada area bounded by a line as follows: Beginning at the intersection of Whittier Boulevard and Euclid Street; then south on Euclid Street to its intersection with La Palma Avenue; then west on La Palma Avenue to its intersection with Brookhurst Street; then south on Brookhurst Street to its intersection with Lincoln Avenue; then west on Lincoln Avenue to its intersection with Moody Street; then north on Moody Street to its intersection with Crescent Avenue; then west on Crescent Avenue to its intersection with Centralia Street; then west on Centralia

Street to its intersection with Pioneer Boulevard; then north on Pioneer Boulevard to its intersection with 166th Street; then west on 166th Street to its intersection with Maidstone Avenue; then north on Maidstone Avenue to its intersection with Excelsior Drive; then east on Excelsior Drive to its intersection with Pioneer Boulevard; then north on Pioneer Boulevard to its intersection with Florence Avenue; then northeast on Florence Avenue to its intersection with Whittier Boulevard; then south and east on Whittier Boulevard to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 6th day of January 2003.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 03–491 Filed 1–9–03; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 906

[Docket No. FV02–906–1 FIR]

#### Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Decreased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Texas Valley Citrus Committee (Committee) for the 2002–03 and subsequent fiscal periods from \$0.12 to \$0.11 per 7/10-bushel carton of oranges and grapefruit handled. The Committee locally administers the marketing order which regulates the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. Authorization to assess orange and grapefruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective February 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, 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.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, 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: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, 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.”

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, orange and grapefruit handlers in the Lower Rio Grande Valley in Texas 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 oranges and grapefruit beginning on August 1, 2002, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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