Rules and Regulations

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Thursday, October 14, 1993

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2429, 2471, and 2472

New Address and Phone Number; New Hours of Operation

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority, and one of its entities, the Federal Service Impasses Panel, relocated its headquarters on March 15, 1993. For the purpose of filing documents with the Authority, this amendment to the rules and regulations of the Authority sets forth the Authority's new address and telephone number, and new hours during which such documents must be filed. In addition, the regulations have been amended to incorporate the new address of the Federal Service Impasses Panel.

EFFECTIVE DATE: October 14, 1993.

FOR FURTHER INFORMATION CONTACT: Solly Thomas, Executive Director, (202) 482-6560.

SUPPLEMENTARY INFORMATION: Certain paragraphs of appendix A to 5 CFR chapter XIV, which set forth the addresses, telephone, and fax numbers of the offices of the headquarters of the Federal Labor Relations Authority and certain offices within the Federal Labor Relations Authority, were amended on March 15, 1993. 58 FR 13695, Mar. 15, 1993. Paragraph (a) of § 2429.24 of the Authority's rules and regulations, which concerns the place and method of filing documents, was inadvertently omitted from the amendment. In addition, §§ 2471.2, 2471.4 and 2472.5, which concern communication with the Federal Service Impasses Panel were also inadvertently omitted from the amendment.

List of Subjects in 5 CFR Parts 2429, 2471 and 2472

Administrative practice and procedure, Government employees, Labor management relations.

Accordingly, these provisions are amended as follows:

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

1. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

2. Section 2429.24(a) is revised to read as follows:

§ 2429.24 Place and method of filing; acknowledgement.

(a) All documents filed or required to be filed with the Authority pursuant to this subchapter shall be filed with the Director, Case Control Office, Federal Labor Relations Authority, Docket Room, suite 415, 607 14th Street, NW., Washington, DC 20424-0001 (telephone: FTS or Commercial (202) 482-6540) between 9 a.m. and 5 p.m., Monday through Friday (except Federal holidays). Documents hand-delivered for filing must be presented in the Docket Room not later than 5 p.m. to be accepted for filing on that day.

* * * * *

PART 2471—PROCEDURES OF THE PANEL

3. The authority citation for part 2471 continues to read as follows:

Authority: 5 U.S.C. 7119, 7134.

4. Sections 2471.2 and 2471.4 are revised to read as follows:

§ 2471.2 Request form.

A form has been prepared for use by the parties in filing a request with the Panel for consideration of an impasse or approval of a binding arbitration procedure. Copies are available from the Office of the Executive Director, Federal Service Impasses Panel, suite 220, 607 14th Street, NW., Washington, DC 20424-0001.

* * * * *

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be addressed to the Executive Director, Federal Service Impasses Panel, suite 220, 607 14th Street, NW., Washington, DC 20424-0001.

PART 2472—IMPASSES ARISING PURSUANT TO AGENCY DETERMINATION NOT TO ESTABLISH OR TO TERMINATE FLEXIBLE OR COMPRESSED WORK SCHEDULES

5. The authority citation for part 2472 continues to read as follows:

Authority: Pub. L. 97-221, 96 Stat. 227 (5 U.S.C. 6131).

6. Section 2472.5 is revised to read as follows:

§ 2472.5 Where to file.

Requests to the Panel provided for in this subchapter and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Director, Federal Service Impasses Panel, suite 220, 607 14th Street, NW., Washington, DC 20424-0001.

Dated: October 4, 1993.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 93-25034 Filed 10-13-93; 8:45 am]

BILLING CODE 6267-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91-155-8]

Mediterranean Fruit Fly; Addition to and Removal From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding new portions of Los Angeles and Orange Counties, CA, to the list of quarantined areas and by removing the quarantined portion of Santa Clara County, CA, from the list. The addition of these new areas to the list of quarantined areas is necessary on an

emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States, while the removal of the Santa Clara County area from the list relieves unnecessary restrictions on the interstate movement of regulated articles from this area.

DATES: Interim rule effective October 8, 1993. Consideration will be given only to comments received on or before December 13, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–155–8. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations), and quarantined the Hancock Park area of Los Angeles County, CA, in an interim rule effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573–57579, Docket No. 91–155). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. We have published a series of interim rules amending these regulations by adding or removing certain portions of Los Angeles, Santa Clara, Orange, and San Diego Counties, CA, from the list of quarantined areas. Amendments affecting California were made effective on September 10, and November 12, 1992; and on January 19, July 16, August 3, and September 22, 1993 (57 FR 42485–42486, Docket No. 91–155–2; 57 FR 54166–54169, Docket No. 91–155–3; 58 FR 6343–6346, Docket No. 91–155–4; 58 FR 39123–39124, Docket No. 91–155–5; 58 FR 42489–42491, Docket No. 91–155–6; 58 FR 49186–49190, Docket No. 91–155–7).

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that additional infestations of Medfly have been discovered in the Pacoima area of Los Angeles County, CA, and in the Santa Ana area of Orange County, CA.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

In accordance with these criteria and the recent Medfly finding described above, we are amending § 301.78–3 by expanding the area in Los Angeles County with the addition of an area of approximately 17 square miles and by expanding the area which extends through both Los Angeles and Orange Counties with the addition of an area of approximately 48 square miles in Orange County. The new quarantined areas are as follows:

Los Angeles County

That portion of Los Angeles County bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 210 and Sunland Boulevard; then west and south along Sunland Boulevard to its intersection with Clybourn Avenue; then south along Clybourn Avenue to its intersection with Saticoy Street; then west along Saticoy Street to its intersection with Vineland Avenue; then south along Vineland Avenue to its intersection with Vanowen Street; then west along Vanowen Street to its intersection with Coldwater Canyon Avenue; then north along Coldwater Canyon Avenue to its intersection with Sheldon Street; then northeast along Sheldon Street to its intersection with Arleta Avenue; then northwest along Arleta Avenue to its intersection with Branford Street; then northeast along Branford Street to its intersection with San Fernando Road; then northwest along San Fernando Road to its intersection with Osborne Street; then northeast along Osborne Street to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with Van Nuys Boulevard; then northeast along Van Nuys Boulevard to its intersection with Interstate Highway 210; then southeast on Interstate Highway 210 to the point of beginning.

Orange County

That portion of Orange County bounded by a line drawn as follows: Beginning at the intersection of Fairview Road and Interstate Highway 405; then east and south along Interstate Highway 405 to its intersection with Culver Drive; then northeast along Culver Drive to its intersection with Walnut Avenue; then northwest along Walnut Avenue to its intersection with Jamboree Road; then northeast along Jamboree Road to its intersection with Tustin Ranch Road; then west along Tustin Ranch Road to its intersection with Pioneer Way; then north along Pioneer Way to its intersection with Pioneer Road; then northwest on Pioneer Road to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with Old Foothill Boulevard; then northwest on Old Foothill Boulevard to its intersection with Hewes Street; then north on Hewes Street to its intersection with Chapman Avenue; then west along Chapman Avenue to its intersection with Haster Street; then south on Haster Street to its intersection with Garden Grove Boulevard; then east along Garden Grove Boulevard to its intersection with Fairview Street; then south on Fairview Street to its intersection with Fairview Road; then south on Fairview Road to the point of beginning.

We have also determined, based on trapping surveys conducted by APHIS and California State and county agency inspectors, that the Medfly has been eradicated from the quarantined area in Santa Clara County, CA. The last finding of the Medfly thought to be associated with the infestation in this area was made on September 9, 1992. Since then, no evidence of infestation has been found in this area. We have determined that the Medfly no longer exists in this area, and we are therefore removing it from the list of areas in § 301.78–3(c) quarantined because of the Mediterranean fruit fly. As a result of this action there are no longer any quarantined areas in Santa Clara

County. Portions of Los Angeles, Orange, and San Bernardino Counties remain quarantined.

Miscellaneous

We are removing from § 301–78–3(c) the lists of neighborhoods preceding each of the Medfly quarantine area border descriptions for California. These lists are not fully inclusive and thus do not completely or accurately describe the areas affected by the Medfly quarantine. Moreover, it would be impractical to list all of the neighborhoods affected by the quarantine. We believe the street-by-street border descriptions are sufficient to describe the areas affected by the Medfly quarantine.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists in Los Angeles and Orange Counties, CA, that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mediterranean fruit fly from spreading to noninfested areas of the United States.

In addition, the Administrator has determined that emergency conditions regarding Medfly infestation no longer exist in Santa Clara County, CA, and the continued quarantined status of this area would impose unnecessary regulatory restrictions on the public. Immediate action is warranted to remove restrictions from the noninfested areas.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This interim rule affects the interstate movement of regulated articles from the Pacoima area of Los Angeles County, CA, the Santa Ana area of Orange County, CA, and the San Jose area of Santa Clara County, CA. There are approximately 336 small entities that could be affected, including 203 retail and wholesale fruit sellers, 67 nurseries, 3 distributors, 20 growers, 2 packers, 1 processor, 39 mobile vendors, and 1 flea market.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, most of these small entities sell regulated articles primarily for local intrastate, not interstate, movement and the sale of these articles would not be affected by this interim regulation.

In the new quarantined areas in Los Angeles and Orange Counties, the effect on those few small entities that do move regulated articles interstate from parts of the quarantined areas 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. Also, many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities should be minimal. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

Similarly, termination of the quarantine in the Santa Clara County area should have a minimal economic effect on the few small entities operating there. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

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 12778

This rule has been reviewed under Executive Order 12778, 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 rule. The assessment provides a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment.

The environmental assessment and finding of no significant impact were prepared in accordance with:

(1) The National Environmental Policy Act of 1969 (NEPA) (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 1(b); and

(4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (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 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–3, paragraph (c), the designation of the quarantined areas is amended by revising the entries for Los Angeles County and for Los Angeles and Orange Counties; and by removing the entry for Santa Clara County, as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

Los Angeles County. That portion of the county beginning at the intersection of Interstate Highway 210 and Sunland Boulevard; then, west and south along Sunland Boulevard to its intersection with Clybourn Avenue; then, south along Clybourn Avenue to its intersection with Saticoy Street; then, west along Saticoy Street to its intersection with Vineland Avenue; then, south along Vineland Avenue to its intersection with Vanowen Street; then west along Vanowen Street to its intersection with Tampa Avenue; then north along Tampa Avenue to its intersection with Nordhoff Street; then west along Nordhoff Street to its intersection with Corbin Avenue; then north along Corbin Avenue to its intersection with Lassen Street; then west along Lassen Street to its intersection with Winnetka Avenue; then north along Winnetka Avenue to its intersection with San Fernando Mission Boulevard; then east along San Fernando Mission Boulevard to its intersection with Winnetka Avenue; then north along Winnetka Avenue to its intersection with Sesnon Boulevard; then east along Sesnon Boulevard to its intersection with Tampa Avenue; then due north along an imaginary line from this intersection to its intersection with the Los Angeles City Limits; then northeast and east along the Los Angeles City Limits to its intersection with Cobalt Street; then south along Cobalt Street to its intersection with Olive View Drive; then east along Olive View Drive to its intersection with Bledsoe Street; then southwest along Bledsoe Street to its intersection with Interstate Highway 210; then southeast along Interstate Highway 210 to the point of beginning.

Los Angeles and Orange Counties. That portion of the counties beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north from the intersection along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west along Brown Mountain Road to its intersection with El Prieto Road; then southwest along El Prieto Road to its intersection with the Pasadena City Limits; then north and west along the Pasadena City limits to its intersection with the La Canada Flintridge City Limits; then west and south along the La Canada Flintridge City Limits to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with La Crescenta Avenue; then south along La Crescenta Avenue to its intersection with Shirley Jean Street; then southwest from this intersection along an imaginary line to the end of Allen Avenue; then southwest along Allen Avenue to its intersection with Mountain Street; then northwest along Mountain Street to its intersection with Sunset Canyon Drive; then northwest along Sunset Canyon Drive to its intersection with Olive Avenue; then southwest along Olive Avenue to its intersection with Barham Boulevard; then south along Barham Boulevard to its intersection with State Highway 101; then southeast along State Highway 101 to its intersection with Highland Avenue; then south along Highland Avenue to its intersection with Sunset Boulevard; then west along Sunset Boulevard to its intersection with La Cienega Boulevard; then south along La Cienega Boulevard to its intersection with Washington Boulevard; then southwest along Washington Boulevard to its intersection with Culver Boulevard; then southwest along Culver Boulevard to its intersection with Vista Del Mar; then southeast along Vista Del Mar to its intersection with Rosecrans Avenue; then east along Rosecrans Avenue to its intersection with Paramount Boulevard; then south on Paramount Boulevard to its intersection with Carson Street; then east on Carson Street to its intersection with Lakewood Boulevard; then south on Lakewood Boulevard to its intersection with Willow Street; then east on Willow Street to its intersection with Katella Avenue; then east along Katella Avenue to its intersection with Valley View Street; then, south along Valley View Street to its intersection with Bolsa Chica Road; then, south along Bolsa Chica road to its intersection with Bolsa Chica Street; then, south along Bolsa Chica Street to its intersection with Los Patos Avenue; then, southeast from this intersection along an imaginary line to the intersection of East Garden Grove Wintersburg Channel and the Bolsa Chica Ecological Reserve boundary; then, southeast along the Bolsa Chica Ecological Reserve boundary to its intersection with Ellis Avenue; then, east along Ellis Avenue to its intersection with Edwards Street; then, south along Edwards Street to its intersection with Garfield Avenue; then, east along Garfield Avenue to its intersection with North Golden West Street; then, south along North Golden West Street to its intersection with Yorktown Avenue; then, east along Yorktown Avenue to its intersection with Main Street; then, south along Main Street to its intersection with Adams Avenue; then, east along Adams Avenue to its intersection with Fairview Road; then, north along Fairview Road to its intersection with Interstate Highway 405; then, east and south along Interstate Highway 405 to its intersection with Culver Drive; then, northeast along Culver Drive to its intersection with Walnut Avenue; then, northwest along Walnut Avenue to its intersection with Jamboree Road; then, northeast along Jamboree Road to its intersection with Tustin Ranch Road; then, west along Tustin Ranch Road to its intersection with Pioneer Way; then, north along Pioneer Way to its intersection with Pioneer Road; then, northwest on Pioneer Road to its intersection with Foothill Boulevard; then, northwest along Foothill Boulevard to its intersection with Old Foothill Boulevard; then, northwest on Old Foothill Boulevard to its intersection with Hewes Street; then, north on Hewes Street to its intersection with Chapman Avenue; then, west along Chapman Avenue to its intersection with West Street; then, north along West Street to its intersection with Katella Avenue; then, west along Katella Avenue to its intersection with Western Avenue; then north on Western Avenue to its intersection with Commonwealth Avenue; then east on Commonwealth Avenue to its intersection with Beach Boulevard; then north on Beach Boulevard to its intersection with La Mirada Boulevard; then northwest and north on La Mirada Boulevard to its intersection with Colima Road; then northeast on Colima Road to its intersection with the Whittier City Limits; then northwest along the Whittier City Limits to its intersection with Turnbull Canyon Road; then north from this intersection along an imaginary line to the intersection of Interstate Highway 605 and State Highway 60; then northeast along Interstate Highway 605 to its intersection with Interstate Highway 10; then east along Interstate Highway 10 to its intersection with Francisquito Avenue; then southeast along Francisquito Avenue to its intersection with Hacienda Boulevard; then southwest along Hacienda Boulevard to its intersection with Amar Road; then east along Amar Road to its intersection with Temple Avenue; then northeast along Temple Avenue to its intersection with the Walnut City Limits; then north and northeast along the Walnut City Limits to its intersection with the Forest Lawn Memorial Park, Covina Hills boundary; then northeast along the boundary to its intersection with Interstate Highway 10; then east along Interstate Highway 10 to its intersection with Interstate Highway 210; then northwest along Interstate Highway 210 to its intersection with San Dimas Avenue; then east and north along San Dimas Avenue to its intersection with Foothill Boulevard; then west along Foothill Boulevard to its intersection with Alosta Avenue; then west along Alosta Avenue to its intersection with Foothill Boulevard; then west along Foothill Boulevard to its intersection with Azusa Avenue; then north along Azusa Avenue to its intersection with San Gabriel Canyon Road; then due north from the intersection along an imaginary line to its intersection with the Angeles National Forest boundary; then west along the boundary to the point of beginning; except that the portion of Los Angeles County bounded by a line drawn as follows is not within the area under quarantine: Beginning at the intersection of State Highway 60 and Interstate Highway 710; then west along State

Highway 60 to its intersection with Interstate Highway 10; then west along Interstate Highway 10 to its intersection with Broadway; then northeast along Broadway to its intersection with Olympic Boulevard; then northwest along Olympic Boulevard to its intersection with State Highway 110; then northeast along State Highway 110 to its intersection with Bishops Road; then southeast along Bishops Road to its intersection with North Broadway; then east along North Broadway to its intersection with Interstate Highway 5; then south along Interstate Highway 5 to its intersection with Interstate Highway 10; then east along Interstate Highway 10 to its intersection with Interstate Highway 710; then south along Interstate Highway 710 to the point of beginning.

* * * * *

§301.78–3 [Amended]

3. In § 301.78–3, paragraph (c), the description of the quarantined area in Los Angeles and San Bernardino Counties is amended by removing the phrase "in the Ontario area" immediately following the phrase "that portion of the county".

Done in Washington, DC, this 8th day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–25175 Filed 10–13–93; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Sanctions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) issues a new provision to its General Administrative Regulations. The intent of this provision is to expand the range of sanctions available to address fraud, misrepresentation, false claims, and other violations of contracts for insurance and contracts and agreements to provide insurance services; and prescribe the terms and conditions under which persons and other entities may be suspended or debarred from contracting with FCIC. This rule also serves to remove and reserve the suspension and debarment provisions as they will now be incorporated into these provisions.

EFFECTIVE DATE: October 14, 1993.

FOR FURTHER INFORMATION CONTACT: Mari L. Dunleavy, Regulatory Specialist, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is July 1, 1997.

Kathleen Connelly, Acting Manager, FCIC has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Acting Manager certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons, nor will it have a significant economic effect on a substantial number of small entities. This action imposes no additional burden to the insured farmer. Further, this action requires of the reinsured company or sales and service contractor what is considered normal in the ordinary conduct of business. This rule does not require any action on the part of any individual or entity in compliance with the program provisions. This action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Acting Manager, FCIC, has certified to the Office of Management and Budget (OMB) that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought for actions taken under proceedings for the imposition of civil penalties or under the Program Fraud Civil Remedies sections of these regulations.

This amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, the Paperwork Reduction Act.

The Office of General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

This rule adds civil penalties provisions under the Federal Crop Insurance Act, as an additional sanction, and incorporates provisions for implementing departmental regulations for Debarment and Suspension and the Program Fraud Civil Remedies Act.

FCIC has established a system of sanctions to prevent waste, fraud, and abuse within its programs and insurance delivery systems, and to ensure maximum compliance with the terms and purposes of its issuances. This rule establishes the sanctions system and prescribes the manner of procedures under which the sanctions system will operate.

A proposed rule was published in Wednesday, July 14, 1993, at 58 FR 37874. Following publication of the proposed rule, the public was given 30 days in which to submit comments, data, and opinions. No comments were received.

Accordingly, the proposed rule published at 58 FR 37874 is hereby issued as final rule. FCIC amends the General Administrative Regulations, effective for the 1993 and succeeding calender years as follows:

List of Subjects in 7 CFR Part 400

General Administrative Regulations, Sanctions.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation hereby amends 7 CFR part 400 of the Code of Federal Regulations as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart E—Suspension and Debarment [Removed and Reserved]

1. Subpart E is removed and reserved.
2. A new subpart R is added to read as follows:

Subpart R—Sanctions

Authority: 7 U.S.C. 1506, 1516.

Subpart R—Sanctions

§ 400.451 General.

(a) The Federal Crop Insurance Corporation (FCIC) has implemented a system of sanctions to prevent waste, fraud, and abuse within its programs and insurance delivery systems. Such sanctions include civil penalties and disqualification from the crop insurance program under the Federal Crop Insurance Act, 7 U.S.C. 1506(m); government wide debarment and suspension; and civil penalties and assessments under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801—31 U.S.C. 3812.

(b) The provisions of this subpart apply to all contracts and agreements to which FCIC is a party unless otherwise specifically provided for in this subpart, including those in which FCIC provides administrative expense reimbursement, premium subsidy, or reinsurance benefits.

(c) The provisions of this subpart are in addition to any other sanctions specifically provided in applicable contracts and agreements.

(d) This subpart is applicable to any act or omission by any affected party after October 14, 1993.

§ 400.452 Definitions.

For purposes of this subpart, a person means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a state, a political subdivision of a state, or any agency thereof.

§ 400.453 Exhaustion of administrative remedies.

All administrative remedies contained herein or incorporated herein by reference must be exhausted before Judicial Review in the United States Courts may be sought, unless review is specifically required by statute.

§ 400.454 Civil penalties.

(a) Any person who willfully and intentionally provides any false or inaccurate information to FCIC or to any insurer reinsured by the FCIC with respect to an insurance plan or policy may be subject to a civil fine of up to $10,000 for each violation and disqualification from the crop insurance program for a period not to exceed 10 years.

(b) FCIC may make the payment of a civil penalty under this section a prior condition for the issuance, renewal, restoration, or continuing validity of any crop insurance policy or other approval.

(c) FCIC may compromise, modify, settle, collect, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section whenever it considers it to be appropriate or advisable.

(d) If a director, officer, or agent of a corporation provides false or inaccurate information, they may be separately subject to the fine specified in paragraph (a) of this section without regard to any penalties to which the corporation may be subject.

(e) The liability of any person for any penalty under this subpart or any related charges arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other statute or provision of law.

(f) Proceedings under this § 400.454 will be in accordance with subpart H of 7 CFR part 1, "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes," by which the Manager, FCIC, shall initiate proceedings by filing a complaint with the Hearing Clerk, United States Department of Agriculture.

§ 400.455 Governmentwide debarment and suspension (procurement).

(a) This section prescribes the terms and conditions under which persons or business entities may be debarred or suspended by FCIC from contracting with the Federal government.

(b) This section is in accordance with 48 CFR part 9, subpart 9.4 and 48 CFR part 409, subpart 409.4 and shall be applicable to all FCIC debarment and suspension proceedings undertaken pursuant to the Federal Acquisition Regulations, except that the authority to debar or suspend is reserved to the Manager, FCIC, or the Manager's designee.

(c) Any individual or entity suspended or debarred under the provisions of 48 CFR part 9, subpart 9.4 will not be eligible to contract with FCIC or be employed by or contract with any insurance company that sells or adjusts FCIC's crop insurance contracts or which company's crop insurance contracts are reinsured by FCIC. FCIC may waive this provision if it is satisfied that the insurance company has taken sufficient action to insure that the suspended or debarred entity or individual will not be involved, in any way, with FCIC or FCIC reinsured crop insurance contracts.

§ 400.456 Governmentwide debarment and suspension (nonprocurement).

(a) This section prescribes the terms and conditions under which individuals or entities may be debarred or suspended by FCIC from participation in Federal assistance and benefits under Federal programs and activities.

(b) This section, in accordance with 7 CFR part 3017, shall be applicable to all FCIC debarment and suspension proceedings other than those undertaken pursuant to the Federal Acquisition Regulations.

(c) Proceedings under this section are not applicable to determinations of eligibility under the provisions of the crop insurance contracts or determinations to be made under 7 CFR 400.454.

(d) The Manager, FCIC, shall be the debarring and suspending official for all debarment or suspension proceedings undertaken by FCIC under the provisions of 7 CFR part 3017.

§ 400.457 Program Fraud Civil Remedies Act.

(a) This section is in accordance with the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–U.S.C. 3831) which provides for civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to Federal authorities or to their agents.

(b) Proceedings under this section will be in accordance with subpart L of

7 CFR part 1, "Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986."

(c) The Director, Appeals and Litigation Staff, FCIC, or the Director's designee, is authorized to serve as Agency Fraud Claims Officer for the purpose of implementing the requirements of this section.

§§ 400.458 through 400.499 [Reserved]

§ 400.500 OMB control numbers.

Office of Management and Budget (OMB) control numbers are contained in subpart H of 7 CFR part 400.

Done in Washington, DC, on September 22, 1993.

Bob Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 93–25144 Filed 10–13–93; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV93–906–1IFR; Amendment 1]

Expenses and Assessment Rate for the Marketing Order Covering Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule amendment with request for comments.

SUMMARY: This amended interim final rule authorizes an increase in expenses and assessment rate for the Texas Valley Citrus Committee (TVCC) under M.O. No. 906 for the 1993–94 fiscal year. This action will enable the TVCC to incur increased expenses and collect additional assessments that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective beginning August 1, 1993, through July 31, 1994. Comments received by November 15, 1993 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this amended interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–5127; or Belinda Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone: (210) 682–2833.

SUPPLEMENTARY INFORMATION: This amended interim final rule is issued under Marketing Agreement and Order No. 906 (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 agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This amended interim final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This amended interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, oranges and grapefruit grown in Texas are subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable citrus fruit handled during the 1993–94 fiscal year, beginning August 1, 1993, through July 31, 1994. This amended interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this amended 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 the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting 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 the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 135 handlers of oranges and grapefruit regulated under the order each season and approximately 2,500 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The Texas orange and grapefruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable citrus fruit handled from the beginning of such year. Annual budgets of expenses are prepared by the TVCC, the agency responsible for local administration of this order, and submitted to the Department for approval. The members of the TVCC are handlers and producers of Texas oranges and grapefruit. They are familiar with the TVCC's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The TVCC's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the TVCC is derived by dividing the anticipated expenses by expected shipments of oranges and grapefruit. Because that rate is applied to actual shipments, it must be established at a rate which will provide sufficient income to pay the TVCC's expected expenses.