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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AJ24

Prevailing Rate Systems; Abolishment of the St. Louis, MO, Special Wage Schedule for Printing Positions

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule to abolish the St. Louis, MO, Federal Wage System (FWS) special wage schedule for printing positions. Printing and lithographic employees in the St. Louis wage area will now be paid from the regular St. Louis appropriated fund FWS wage area schedule. This change is necessary because there are no longer enough printing and lithographic employees in the wage area to conduct the local special wage survey successfully.

DATES: *Effective Date:* This regulation is effective on October 16, 2000.

Applicability Date: Agencies will place employees who are paid from the St. Louis special wage schedule on the St. Louis regular wage schedule on December 17, 2000.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, or FAX: (202) 606-4264.

FOR FURTHER INFORMATION CONTACT: Chenty I. Carpenter at (202) 606-8359; by FAX at (202) 606-4264; or by email at cicorrea@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is abolishing the St. Louis, MO, Federal Wage System (FWS) special wage schedule for printing positions. The Department of Defense (DOD) recommended that we abolish this special wage schedule because it has become extremely difficult for DOD to release adequate numbers of employees to conduct the local special wage survey successfully.

The number of printing and lithographic employees in the wage area has declined from 225 employees in 1985 to 17 employees currently. These employees work in various locations throughout the St. Louis wage area. Twelve of these employees work for the Defense Logistics Agency, four work for the Department of the Army, and one works for the National Guard Bureau. DOD has found it increasingly difficult to comply with the requirement that employees paid from the special printing schedule participate in the local special wage survey process. The decline in employees is expected to continue until there are no longer any printing and lithographic employees in the wage area.

Printing and lithographic employees will convert to the St. Louis FWS regular wage schedule on a grade for grade basis. Each employee's new rate of pay will be set at the step rate for the applicable grade of the regular wage schedule that equals the employee's existing rate of pay. If an employee's existing pay rate falls between two steps on the regular schedule, the new rate will be set at the higher of the two steps. If an employee's existing pay rate is higher than the highest rate for his or her grade on the regular schedule, the employee will, if otherwise eligible, be entitled to pay retention.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee that advises OPM on FWS pay matters, reviewed and concurred by consensus with this change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. In § 532.279, paragraph (j) is revised to read as follows:

§ 532.279 Special Wage schedules for printing positions.

* * * * *

(j) A special printing schedule is authorized in the Washington, DC, wage area.

[FR Doc. 00-23589 Filed 9-13-00; 8:45 am]

BILLING CODE 6325-01-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00-035-1]

RIN 0579-AB19

Plum Pox Compensation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending our plum pox regulations to provide for the payment of compensation to the owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. The payment of these funds is necessary in order to reduce the economic impact of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners and enhance eradication efforts.

DATES: This interim rule is effective September 14, 2000. We invite you to comment on this docket. We will consider all comments that we receive by November 13, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 00-035-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 00-035-1.

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 Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 2000, we published in the **Federal Register** (65 FR 35261-35265, Docket No. 00-034-1) an interim rule that established regulations quarantining a portion of Adams County, PA, due to the detection of plum pox in that region and restricting the interstate movement of certain articles from the quarantined area that present a risk of transmitting plum pox (e.g., trees, seedlings, root stock, budwood, branches, twigs, and leaves of susceptible *Prunus* spp.). Those regulations, which are contained in "Subpart Plum Pox" (7 CFR 301.74 through 301.74-4), were promulgated on an emergency basis to prevent the spread of plum pox to noninfested areas of the United States.

Plum pox is an extremely serious viral disease of plants that can affect many *Prunus* (stone fruit) species, including plum, peach, apricot, almond, nectarine, and sweet and tart cherry (although the particular strain of plum pox detected in Adams County, PA the D strain is not known to infect cherry). A number of wild and ornamental *Prunus* species

may also be susceptible to this disease. Infection eventually results in severely reduced fruit production, and the fruit that is produced is often misshapen and blemished. In Europe, plum pox has been present for a number of years and is considered to be the most serious disease affecting susceptible *Prunus* varieties. Plum pox virus is transmitted locally by a variety of aphid species, as well as by budding and grafting with infected plant material, and spreads over longer distances through movement of infected budwood, nursery stock, and other plant parts. The D strain of plum pox is not known to be transmitted by seed or fruit.

There are no known effective methods for treating trees or other plant material infected with plum pox, nor are there any known effective prophylactic treatments to prevent the disease from occurring in trees exposed to the disease due to their proximity to infected trees or other plant material. Without effective treatments, the only option for preventing the spread of the disease is the destruction of infected and exposed trees and other plant material.

In addition to quarantining portions of Adams County, PA, officials of the Animal and Plant Health Inspection Service (APHIS) and the Pennsylvania Department of Agriculture (PDA) have been conducting an intensive survey and eradication program in and around the infested area since plum pox was first detected in the fall of 1999. In the fall of 1999, 18 blocks of commercial stone fruit trees covering 218 acres were found positive for plum pox. The trees in those blocks were destroyed in the spring of 2000. As of July 21, 2000, PDA and APHIS had jointly ordered the destruction of an additional 24 blocks of commercial stone fruit trees covering 527 acres that had been identified as infected during this year's survey, which began in the first week of May 2000. PDA and APHIS anticipate that additional infected blocks will be detected and destroyed during the course of this year's survey. In addition to the commercial stone fruit orchards affected by plum pox, two fruit tree nurseries located in the vicinity of the regulated area were issued emergency action notifications (EAN's) that stopped the sale and movement of any *Prunus* spp. plant material from those nurseries because of risk associated with budwood that was cut in the quarantined area.

On March 2, 2000, the Secretary of Agriculture published in the **Federal Register** (65 FR 11280-11281, Docket No. 00-001-1) a declaration of extraordinary emergency regarding plum pox that was effective on January

20, 2000. A declaration of extraordinary emergency enables the Secretary to, among other things, pay compensation to producers and other persons for economic losses incurred by them as a result of the quarantine, destruction, or other action taken pursuant to the declaration of extraordinary emergency. Therefore, in order to reduce the economic impact of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners, we are amending the plum pox regulations to provide for the payment of compensation to eligible growers and nursery owners. The provisions for the payment of compensation have been added to the plum pox regulations in a new section, § 301.74-5, "Compensation."

Eligibility

Paragraph (a) of § 301.74-5 provides that owners of commercial stone fruit orchards and fruit tree nurseries will be eligible to receive compensation from the U.S. Department of Agriculture (USDA) to mitigate losses or expenses incurred as a result of the plum pox quarantine and emergency actions.

The owner of a commercial stone fruit orchard will be eligible to receive compensation for losses associated with the destruction of trees in order to control plum pox pursuant to an EAN issued by APHIS. When the presence of plum pox is confirmed in an orchard block, APHIS and PDA jointly issue an order for the destruction of those trees that have been identified as being infected with plum pox or exposed to the plum pox virus. That order, which identifies the trees to be destroyed and specifies the date by which the destruction must occur, will serve as the primary means of documentation for an owner's claim for compensation.

The owner of a fruit tree nursery will be eligible to receive compensation for net revenue losses associated with the prohibition on the movement or sale of nursery stock as a result of the issuance of an EAN by APHIS with respect to regulated articles within the nursery in order to control plum pox. To date, two fruit tree nurseries have been issued EAN's that prohibited the sale and movement of any *Prunus* material in the nursery because of risk associated with budwood that was cut in the quarantined area. Because nursery stock can be considered a perishable crop, we believe that it is reasonable that the nursery owners would choose to destroy the regulated articles rather than continuing to spend money maintaining articles that could not be moved or sold. Again, the EAN identifying the material that cannot be moved or sold will serve

as the primary means of documentation for a nursery owner's claim for compensation.

Amount of Payment

Paragraph (b) of § 301.74–5 provides the rates of compensation for trees and the method of calculating the amount of compensation for nursery stock. This paragraph begins by stating that compensation will be paid to eligible individuals upon approval of a claim submitted in accordance with § 301.74–5(c), which is explained below.

Stone fruit orchards. Eligible owners of commercial stone fruit orchards will be compensated on a per-acre basis at a rate based on the age of the trees

destroyed and a 3-year prohibition on the planting of host trees. The compensation to be paid by USDA is based on the loss in value of the destroyed orchard. The calculation is the difference between the value of the original (destroyed) trees over a 25-year life cycle minus the value of the trees to be replanted, up to the expected remaining life of the replanted trees. This takes into account the fact that a replanted orchard is an economically productive asset for its entire expected life.

The loss in value is calculated as the difference between the net present value (NPV) of the original (destroyed) orchard over a 25-year life cycle minus

the NPV of the replanted orchard for its entire productive life of 25 years. To calculate the NPV of an orchard (both original and replanted orchards), we used discounted cash flow analysis, which takes into account the quantity, variability, and duration of the forecasted income stream over a specified income projection period. Each year's net income is discounted back to a present worth figure at the appropriate, market-derived discount rate. The valuation model can be expressed in the following equation form, where Y = net income, r = discount rate, and n = number of years in the discount period:

$$NPV = \frac{Y_1}{(1+r)^1} + \frac{Y_2}{(1+r)^2} + \frac{Y_3}{(1+r)^3} + \dots + \frac{Y_n}{(1+r)^n}$$

To calculate NPV using the above equation, we had to determine net income, discount rate, and the number of years in the discount period. Each of these inputs is discussed below. A more detailed analysis may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

The rate of compensation to be paid by USDA is set at up to 85 percent of

the difference in value between the destroyed and replacement orchards as described above. The State of Pennsylvania has indicated that State funds will be used to make up the remaining difference in value. In no case will total USDA plus State compensation exceed 100 percent of the difference in value.

Net income. To determine per-acre net income, we multiplied the yield (number of bushels) per acre by the price per bushel, then subtracted production costs. The estimation of net income is based on the 1995–1998 average Pennsylvania peach production, price, and yield data from the Pennsylvania Agricultural Statistics Service.

Year	Peach price (\$/bushel)	Yield (bushel/acre)	Income (\$ per acre)
1995	13.65	275.9	3,766
1996	16.50	254.5	4,199
1997	16.85	254.5	4,288
1998	15.85	236.4	3,747
1995–98 average	15.71	255.3	4,010

The calculation of the variable costs of production is based on the following estimates:

Type of cost	Year incurred	Costs
Land preparation	Year 0	\$395 per acre
Planting	Year 1	\$1,303 per acre
Orchard maintenance during preproductive year	Year 2	\$222 per acre
Orchard maintenance during productive years	Years 3–25	\$899/year per acre
Harvest cost	Years 4–25	\$1.75 per bushel

Discount rate. The discount rate used in the present value calculation is 12.5 percent, which is the risk-adjusted rate estimated to be appropriate in this situation.

Number of years in discount period. The NPV was calculated using a life cycle approach. The revenues and costs were calculated over a period equal to the expected productive life of a replanted orchard, which, as noted previously, is 25 years.

Using the information and methodology set forth in the preceding

paragraphs, we have arrived at the per-acre compensation rates set forth in the chart provided in § 301.74–5(b)(1) in the regulatory text at the end of this document. The amounts of compensation for destroyed trees range from \$3,713 per acre for a 25-year-old block of trees to \$15,000 per acre for a 7-year-old block of trees. Finally, because compensation programs such as that established by this rule are intended, in part, to encourage the prompt execution of measures deemed necessary to control or eradicate plant

pests, § 301.74–5(b)(1) provides that compensation payments will be reduced by 10 percent, plus any tree removal costs incurred by the State or USDA, if the trees subject to an EAN were not destroyed by the date specified on that order.

Fruit tree nurseries. Eligible owners of fruit tree nurseries will be compensated for up to 85 percent of net revenues that were lost as the result of the issuance of an EAN (compensation will be 85 percent if State compensation is less than or equal to 15 percent of lost

revenues). The issuance of an order prohibiting the movement or sale of regulated articles from a nursery would affect two seasons' worth of nursery stock, *i.e.*, the nursery stock that would have been sold during the year in which the EAN was issued (referred to as the first year crop) and the nursery stock being grown during that year that would have been sold during the following year (referred to as the second year crop).

To calculate the net revenue lost on the first year crop, we will multiply the expected number of trees that would have been sold (the number of trees in the field minus 2 percent culls and 3 percent unsold trees) by the average price per tree (\$4.65 per tree for all varieties); from that amount, we will then subtract digging, grading, and storage costs (\$0.10 per tree) to arrive at the net revenue lost for the first year crop. To calculate the net revenue lost for the second year crop, we will multiply the expected number of trees to be sold (the number of budded trees in the field minus 20 percent death loss minus 2 percent culls) by the average price per tree (\$4.65 for plum and apricot trees and \$3.30 for peach and nectarine trees). The total compensation amount will, as noted above, be up to 85 percent of the sum of the net revenue losses for the first and second year crops.

How to Apply

Paragraph (c) of § 301.74–5 provides information on how to apply for compensation. This paragraph states that the form necessary to apply for compensation may be obtained from the Plum Pox Cooperative Eradication Program, USDA, APHIS, PPQ, 401 East Louthier Street, Suite 102, Carlisle, PA 17013–2625, and that the completed claim form must be sent to the same address. Claims for trees or nursery stock destroyed on or before the effective date of this rule must be received within 60 days after the effective date of this rule. Claims for trees or nursery stock destroyed after the effective date of this rule must be received within 60 days after the destruction of the trees or nursery stock.

For claims made by owners of commercial stone fruit orchards, the completed application must be accompanied by a copy of the EAN ordering the destruction of the trees, its accompanying inventory that describes the acreage and ages of trees removed, and documentation verifying that the destruction of trees has been completed and the date of that destruction. For claims made by owners of fruit tree nurseries, the completed application

must be accompanied by a copy of the EAN prohibiting the sale or movement of the nursery stock, its accompanying inventory that describes the total number of trees covered by the EAN and their age and variety, and documentation indicating the final disposition of the nursery stock.

Replanting

Paragraph (d) of § 301.74–5 prohibits, for a period of 3 years following the destruction of the original trees, the replanting of susceptible *Prunus* species on premises where trees have been destroyed because of plum pox pursuant to an EAN. We are taking this step to ensure that there is adequate time to thoroughly survey the areas within and around quarantined areas and ensure they are free of infection before potential host material is reintroduced.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to reduce the economic effect of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners, thus ensuring the continued cooperation of growers and nursery owners with the survey and eradication activities being conducted by PDA and APHIS.

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 this action effective less than 30 days after publication. 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**. The document 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 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866.

The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

The following economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of the potential economic

effects on small entities as required by the Regulatory Flexibility Act.

This rule amends the plum pox regulations to provide for the payment of compensation to the owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. The payment of these funds is necessary in order to reduce the economic effect of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners.

The presence of plum pox in Adams County, PA, seriously threatens not only the stone fruit orchards in southern Pennsylvania and adjacent areas of Maryland and West Virginia, but could eventually threaten the entire domestic stone fruit industry. Federal involvement in eradicating a new disease outbreak such as plum pox yields greater benefits to the uninfected industry in the United States. Without such actions, it is unlikely that affected individuals could or would provide sufficient control to prevent the spread of diseases or pests.

Pennsylvania is the fifth largest peach-producing State in the United States, following California, South Carolina, Georgia, and New Jersey. In 1998, Pennsylvania produced 65 million pounds of peaches, with Adams County producing about 45 percent (29.5 million pounds) of that total. Adams County peaches fetch an average price of 34 cents per pound, which is higher than the national average of 24.40 cents per pound. The total value of production for Adams County peaches in 1998 was approximately \$10 million, or half of the value of the State's production.

The total value of U.S. peach production was nearly \$500 million in 1998. Specific production statistics for other plum pox hosts grown in Pennsylvania, such as apricots, nectarines, and plums, are unavailable. In 1998, the total value of domestic stone fruit production, including almonds, was about \$1.6 billion.

Removing infected and exposed stone fruit trees protects a substantial investment in other stone fruit orchards. While the entire value of domestically produced stone fruit is not at risk immediately from plum pox, the disease would, if left unchecked, continue to spread; over time, an increasing percentage of the industry would be at risk.

On June 29, 2000, the Vice President and the Secretary of Agriculture announced that the USDA would provide up to \$13.2 million to compensate Pennsylvania fruit growers

for trees destroyed because of plum pox. As noted previously, a total of 745 acres of stone fruit trees had been destroyed or ordered destroyed by July 21, 2000. According to PDA officials, the average age of those trees is 11 years; this rule provides for a payment of up to \$13,601 per acre by USDA for 11-year-old-trees. Paid at that rate, the costs of replacing those 745 acres of stone fruit trees will be approximately \$10.1 million, leaving about \$3.1 million of the \$13.2 million available to cover additional losses for this year (*i.e.*, approximately 228 additional acres if paid at the \$13,601 per-acre rate). As noted previously, PDA and APHIS anticipate that additional infected blocks are likely to be detected and destroyed during the course of this year's survey, so it is likely that all or substantially all of the \$13.2 million in compensation funds that were the subject of the June 29, 2000, announcement will have to be used to cover this year's losses. The costs of compensation for the net revenues lost by the two fruit tree nurseries is expected to be approximately \$500,000.

Effects on Small Entities

The Regulatory Flexibility Act requires that the Agency specifically consider the economic effects of its rules on small entities. The Small Business Administration (SBA) defines a firm engaged in agriculture as "small" if it has less than \$500,000 in annual receipts. Within the quarantined area of Adams County, PA, there are 7 peach, plum, and nectarine producers with orchards on about 800 acres. Four of these producers are known to have orchards infected with plum pox. None of the producers in the quarantined area would be considered small under SBA guidelines. However, in Adams County as a whole, there are 124 stone fruit growers; of these, about two-thirds would be considered small entities under SBA guidelines. This rule will allow eligible persons to be compensated for the destruction of stone fruit trees or nursery stock to control plum pox and is, therefore, expected to be beneficial to growers or nursery owners who had trees or nursery stock destroyed as part of the eradication program.

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 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.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0159 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503, and (2) Docket No. 00-035-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 00-035-1 and send your comments within 60 days of publication of this rule.

This interim rule will provide for the payment of compensation to the owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. The payment of these funds is necessary in order to reduce the economic impact of the plum pox quarantine on affected commercial stone fruit growers and fruit tree nursery owners and increase the effectiveness of plum pox eradication efforts. Implementing this compensation program will necessitate the use of an information collection activity in the form a claim form that eligible owners must complete in order to apply for compensation. We are soliciting comments from the public concerning our information collection requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions,

including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: Owners of fruit tree nurseries and owners of commercial stone fruit orchards.

Estimated annual number of respondents: 12.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 12.

Estimated total annual burden on respondents: 2 hours.

Copies of this information collection can be obtained from Ms. Laura Cahall, APHIS' Information Collection Coordinator, at (301) 734-5360.

List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: Title IV, Pub. L. 106-224, 114 Stat. 438, 7 U.S.C. 7701-7772; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

2. In Subpart Plum Pox, a new § 301.74-5 is added to read as follows:

§ 301.74-5 Compensation.

(a) *Eligibility.* The following individuals are eligible to receive compensation from the U.S. Department of Agriculture to mitigate losses or expenses incurred because of the plum pox quarantine and emergency actions:

(1) *Owners of commercial stone fruit orchards.* The owner of a commercial stone fruit orchard will be eligible to receive compensation for losses associated with the destruction of trees

in order to control plum pox pursuant to an emergency action notification issued by the Animal and Plant Health Inspection Service (APHIS).

(2) *Owners of fruit tree nurseries.* The owner of a fruit tree nursery will be eligible to receive compensation for net revenue losses associated with the prohibition on the movement or sale of nursery stock as a result of the issuance of an emergency action notification by APHIS with respect to regulated articles within the nursery in order to control plum pox.

(b) *Amount of payment.* Upon approval of a claim submitted in accordance with paragraph (c) of this section, individuals eligible for compensation under paragraph (a) of this section will be paid at the rates indicated in this paragraph.

(1) *Owners of commercial stone fruit orchards.* Owners of commercial stone fruit orchards who meet the eligibility requirements of paragraph (a)(1) of this section will be compensated on a per-acre basis at a rate based on the age of the trees destroyed. If the trees were not destroyed by the date specified on the emergency action notification, the compensation payment will be reduced by 10 percent and by any tree removal costs incurred by the State or the U.S. Department of Agriculture (USDA). The maximum USDA compensation rate is 85 percent of the loss in value, adjusted for any State-provided compensation to ensure total compensation from all sources does not exceed 100 percent of the loss in value.

Age of trees (years)	Maximum compensation rate (\$/acre, equal to 85% of loss in value)
1	4,805
2	7,394
3	9,429
4	12,268
5	14,505
6	14,918
7	15,000
8	14,709
9	14,383
10	14,015
11	13,601
12	13,136
13	12,613
14	12,024
15	11,361
16	10,616
17	9,854
18	9,073
19	8,272
20	7,446
21	6,594
22	5,789
23	5,035

Age of trees (years)	Maximum compensation rate (\$/acre, equal to 85% of loss in value)
24	4,341
25	3,713

(2) *Owners of fruit tree nurseries.* Owners of fruit tree nurseries who meet the eligibility requirements of paragraph (a)(2) of this section will be compensated for up to 85 percent of the net revenues lost from their first and second year crops as the result of the issuance of an emergency action notification which will be calculated as follows:

(i) *First year crop.* The net revenue loss for trees that were expected to be sold in the year during which the emergency action notification was issued (*i.e.*, the first year crop) will be calculated as $(\text{expected number of trees to be sold}) \times (\text{average price per tree}) - (\text{digging, grading, and storage costs}) = \text{net revenue lost for first year crop}$, where:

(A) The expected number of trees to be sold equals the number of trees in the field minus 2 percent culls minus 3 percent unsold trees; and

(B) The average price per tree is \$4.65; and

(C) Digging, grading and storage costs are \$0.10 per tree.

(ii) *Second year crop.* The net revenue loss for trees that would be expected to be sold in the year following the year during which the emergency action notification was issued (*i.e.*, the second year crop) will be calculated as $(\text{expected number of trees to be sold}) \times (\text{average price per tree}) = \text{net revenue lost for second year crop}$, where:

(A) The expected number of trees to be sold equals the number of budded trees in the field minus 20 percent death loss minus 2 percent culls; and

(B) The average price per tree is \$4.65 for plum and apricot trees and \$3.30 for peach and nectarine trees.

(c) *How to apply.* The form necessary to submit a claim for compensation may be obtained from the Plum Pox Cooperative Eradication Program, USDA, APHIS, PPQ, 401 East Louthier Street, Suite 102, Carlisle, PA 17013-2625. The completed claim form must be sent to the same address. Claims for trees or nursery stock destroyed on or before the effective date of this rule must be received within 60 days after the effective date of this rule. Claims for trees or nursery stock destroyed after the effective date of this rule must be received within 60 days after the

destruction of the trees or nursery stock. Claims must be submitted as follows:

(1) *Claims by owners of commercial stone fruit orchards.* The completed application must be accompanied by a copy of the PDA or APHIS document ordering the destruction of the trees, its accompanying inventory that describes the acreage and ages of trees removed, and documentation verifying that the destruction of trees has been completed and the date of that destruction.

(2) *Claims by owners of fruit tree nurseries.* The completed application must be accompanied by a copy of the order prohibiting the sale or movement of the nursery stock, its accompanying inventory that describes the total number of trees and the age and variety, and documentation describing the final disposition of the nursery stock.

(d) *Replanting.* Premises on which trees have been destroyed because of plum pox pursuant to an emergency action notification issued by APHIS may not be replanted with susceptible *Prunus* species (*Prunus* species identified as regulated articles) for 3 years.

(Approved by the Office of Management and Budget under control number 0579-0159)

Done in Washington, DC, this 11th day of September 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-23620 Filed 9-13-00; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Docket No. FV00-929-6 IFR]

Cranberries Grown in the States of Massachusetts, et al.; Temporary Suspension of Provisions in the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule suspends certain sections in the rules and regulations to shorten the appeals procedure for growers who disagree with their sales history determination made by the Cranberry Marketing Committee (Committee) for the 2000/2001 marketing season. Due to the lateness of the season, and the numerous appeals received, the Committee recommended