

program. It also recommended the reduced rate to lower handler assessments by \$100,000 during 2002–03.

The Committee reviewed and unanimously recommended 2002–03 expenditures of \$1,226,022, which included a decrease in the Mexican Fruit Fly program and an increase in the management and administration of the program. Budgeted expenses for the advertising program and the compliance program remained the same as last year. In arriving at the budget, the Committee considered information from various sources, including the Executive Committee. The Committee considered leaving the established higher assessment rate unchanged. However, it concluded that the reserves currently held by the Committee are higher than the Committee needs to administer the program.

The assessment rate of \$0.11 per 7/10-bushel carton of assessable oranges and grapefruit was determined by dividing the total budget by the 10 million 7/10-bushel cartons of oranges and grapefruit estimated to be handled during the 2002–03 fiscal period. The \$0.11 rate will provide \$1,100,000 in assessment income. The additional \$126,022 to fund the Committee's estimated expenses will come from the Committee's reserve, a refund of an overpayment from the Mexican Fruit Fly program, and interest income.

A review of historical information (October 1998 through May 2002) and preliminary information pertaining to the upcoming fiscal period indicates that the packinghouse door price for the 2002–03 fiscal period could range, monthly, from \$1.65 to \$10.36 per 7/10-bushel carton of Texas oranges and grapefruit, depending upon the fruit variety, size, and quality. Therefore, the estimated assessment revenue for the 2002–03 fiscal period as a percentage of total grower (packinghouse door) revenue could range between 6.67 percent and 1.06 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Texas orange and grapefruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 28, 2002, meeting was a public meeting and

all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Texas orange and grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on October 7, 2002 (67 FR 62318). Copies of that rule were also mailed or sent via facsimile to all orange and grapefruit handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on December 6, 2002, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 906 which was published at 67 FR 62318 on October 7, 2002, is adopted as a final rule without change.

Dated: January 6, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03–454 Filed 1–9–03; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1208

[FV–02–710]

#### Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order; Termination

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

**ACTION:** Final rule; termination order.

**SUMMARY:** This final rule terminates the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order) and its rules and regulations in their entirety. This action is necessary because the Order has not been in operation since 1997, and collection efforts under the Order have been exhausted. Therefore, there is no need to continue the program.

**EFFECTIVE DATE:** February 10, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Margaret B. Irby, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Room 2535–S, Washington, DC 20250–0244, telephone (202) 720–9915, fax (202) 205–2800, e-mail [margaret.irby@usda.gov](mailto:margaret.irby@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 [7 U.S.C. 6801–6814] (Act).

The U.S. Department of Agriculture (USDA or the Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this termination order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court.

This final rule terminates the Order and its rules and regulations.

The Act authorizes the creation of a generic program of promotion and information for fresh cut flowers and greens and became effective on December 14, 1993. The Order was issued on December 29, 1994, and the National PromoFlor Council (Council) was appointed to administer the Order under USDA supervision. The Order covered approximately 650 wholesale handlers (qualified first handlers) of

fresh cut flowers and greens with sales of \$750,000 or more annually. In accordance with paragraph (h)(4) of § 6804 of the Act and paragraph (e) of § 1208.41 of the Order, the Council retained 10 percent of the assessment funds collected in an interest-bearing escrow account.

Paragraph (a)(1) of § 6806 of the Act requires USDA to conduct a referendum not later than three years after the issuance of the Order to ascertain whether the Order should be continued. Paragraph (a)(2) of that section requires that the Order be approved by a simple majority of all votes cast in the referendum in order to continue. The referendum was conducted from June 2 through 20, 1997.

In the referendum, only 42 percent of the voters voted to continue the program. Paragraph (d) of § 6806 of the Act and § 1208.60 of the Order, provide that, if the Department determines that termination of the Order is favored by a majority of all votes cast in the referendum, the Department shall terminate the collection of assessments under the Order not later than 180 days after the referendum results are announced. Therefore, the Department published a termination order in the **Federal Register** on July 28, 1997 [62 FR 40255], stating that termination of the Order was favored by a majority of the qualified handlers voting in the referendum and that the Order should therefore be terminated. The termination order eliminated the requirement for handlers to pay assessments as of July 29, 1997. The Act requires the Department to terminate activities under the Order as soon as practicable and in an orderly manner. The other provisions of the Order remained in effect in order to facilitate the collection of past-due assessments from 14 handlers.

In addition, in accordance with § 1208.61 of the Order, the Department appointed five members of the Council to serve as trustees for the purpose of liquidating the assets of the Council.

Paragraph (h)(4) of § 6804 of the Act provides that refunds of assessments shall be made out of the escrow account to those qualified handlers who apply for refunds prior to the conduct of the referendum and submitted satisfactory proof that they paid the assessment for which a refund is requested. If the amount in the escrow account is not sufficient to refund the total amount of assessments demanded, the amount of all such refunds shall be prorated among all eligible qualified handlers that demand the refunds. Section 1208.61 of the Order provides that refunds are to be made within 30 days

of the date the results of the referendum are released by the Department. Due to the number of refund requests, handlers received refunds of about 12 cents for each dollar in assessments paid to the Council. After the refunds were made and the Council's assets were liquidated, a final audit of the Council's books was conducted.

As of July 29, 1997, 14 handlers owed a total of \$433,483.50 in past-due assessments. To date, USDA has collected \$283,130.00 in past-due assessments, \$38,932.98 in late fees, and \$4,500.00 in civil penalties from these handlers pursuant to final decisions by the Secretary of Agriculture in 14 administrative proceedings brought by the Agricultural Marketing Service (AMS). In accordance with instructions from the trustees, the past-due assessments and late fees were distributed to three floral industry groups. In accordance with the Act, the civil penalties were forwarded to the U.S. Department of the Treasury.

Collection efforts have been exhausted. Therefore, this action terminates all provisions of the Order and its rules and regulations.

#### Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

The Order covered approximately 650 wholesale handlers (qualified handlers). Small agricultural service firms have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$5 million dollars. A majority of the qualified handlers may be classified as small entities.

This final rule terminates the Order covering fresh cut flowers and greens. Assessment obligations were terminated on July 29, 1997. The program has been inoperative since that time.

The floral industry has been operating without a promotion program since assessments were terminated. Reestablishing the Order would mean additional cost to the industry stemming from assessments to operate the Order

(the last assessment was 0.5 percent of the gross sales price of the cut flowers and greens sold), reports to the Council, and recordkeeping. By not reinstating the Order, the industry benefits from avoiding these costs. Because the industry has been operating without the Order for five years, termination of the Order will have no noticeable effect on either small or large operations.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the information collection requirements under the Order were approved by the Office of Management and Budget (OMB) and assigned OMB Nos. 0581-0096 and 0505-0001. When assessment collections were terminated on July 29, 1997, these information collection requirements were also suspended. Now that the Order is being terminated, these requirements are eliminated.

USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this final rule.

#### Termination Order

Termination of the Order was favored by a majority of the qualified handlers voting in a referendum conducted in 1997. The Act requires that, upon such a determination by referendum, the Department shall terminate the Order. The Order has been inoperative for five years, and assessment collection efforts have been exhausted. In addition, the assets of the Council have been liquidated, and a final audit of the Council's books has been conducted.

It is therefore ordered, that pursuant to section 6806 of the Act, the Order, and its rules and regulations [7 CFR Part 1208] are hereby terminated.

It is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to putting this action into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because (1) termination of the Order was favored by a majority of qualified handlers voting in a referendum in 1997; (2) the Order has been inoperative for five years and assessment collection efforts have been exhausted; and (3) the assets of the Council have been liquidated and a final audit of the Council's books has been conducted.

#### List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Cut flowers, Cut greens, Promotion,

Reporting and recordkeeping requirements.

#### **PART 1208—[REMOVED]**

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 6802 *et seq.*, 7 CFR part 1208 is removed.

Dated: January 6, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03-453 Filed 1-9-03; 8:45 am]

**BILLING CODE 3410-02-P**

### **DEPARTMENT OF TRANSPORTATION**

#### **Coast Guard**

#### **33 CFR Part 117**

**[CGD01-02-144]**

#### **Drawbridge Operation Regulations. Cape Cod Canal, MA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations that govern the Conrail Railroad Bridge across Cape Cod Canal, mile 0.7, at Bourne, Massachusetts. This temporary deviation will allow the bridge to remain closed at 60 feet above mean high water from 8 a.m. through 5 p.m., on 14 days in January, 2003. From 8 a.m. through 5 p.m. on February 3 and 6, 2003, the bridge may remain fully closed. This temporary deviation is necessary to facilitate vital unscheduled mechanical repairs at the bridge.

**DATES:** This deviation is effective from January 2, 2003, through February 6, 2003.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. John McDonald, Project Officer, First Coast Guard District Bridge Branch, (617) 223-8364.

**SUPPLEMENTARY INFORMATION:** The vertical clearance under the Conrail

Railroad Bridge in the open position is 135 feet at mean high water and 139 feet at mean low water. The draw is normally in the fully open position except for the passage of rail traffic. The existing regulations are listed at 33 CFR 117.589.

The owner of the bridge, the Army Corps of Engineers (ACOE), requested a temporary deviation from the Drawbridge Operation Regulations to facilitate vital unscheduled maintenance, the replacement of the counterweight guide rails, at the bridge. This work must be performed without delay to ensure continued safe reliable operation of the bridge.

The bridge owner advised the mariners who normally use this waterway about the necessary emergency repairs at the bridge and the temporary closures that will be required in order to facilitate the necessary repairs. No objections were received.

Under this temporary deviation the Conrail Railroad Bridge, mile 0.7, across the Cape Cod Canal, may remain closed at 60 feet above mean high water from 8 a.m. through 5 p.m. on January 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 28, 29, and 30, 2003. From 8 a.m. through 5 p.m. on February 3 and 6, 2003, the bridge may remain fully closed.

Under the deviation schedule listed above, the bridge will be closed three days each week; however, the third day each week and the last week of the closure schedule were added as extra days in case the repair work is delayed by inclement weather.

Mariners may contact the U.S. Army Corps of Engineers Marine Traffic Controller 24-hour telephone line at (508) 759-4431 for the operational status of the bridge.

Thirty days notice to the Coast Guard for approval of this bridge maintenance was not given by the bridge owner and was not required because this work involves vital, unscheduled maintenance that must be performed without undue delay.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: December 27, 2002.

**J.L. Grenier,**

*Captain, Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 03-484 Filed 1-9-03; 8:45 am]

**BILLING CODE 4910-15-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[OH118-3; FRL-7436-1]**

#### **Approval and Promulgation of Implementation Plans; Ohio**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) approves Ohio's State Implementation Plan (SIP) revisions for New Source Review (NSR) in nonattainment areas. Previously, EPA issued both a direct final approval and a proposed approval of Ohio's revisions. EPA withdrew the direct final action upon receiving adverse comments. In this action, EPA responds to the public comments received and announces EPA's final rulemaking action. In consideration of the comments and the requirements of the Clean Air Act (CAA), EPA now fully approves Ohio's nonattainment NSR program as an addition to the SIP.

Recently, EPA announced new regulations regarding changes to the NSR Program through efforts under "NSR Reform." Today's approval of Ohio's NSR SIP submission does not address EPA's new rules but is limited to portions of Ohio's program under prior existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any new requirements that EPA may promulgate as part of "NSR Reform."

**DATES:** This rule is effective on January 10, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for inspection during normal business hours at the following location:

Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kaushal Gupta at (312) 886-6803 or Jorge Acevedo at (312) 886-2263 before visiting the Region 5 office.

Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

**FOR FURTHER INFORMATION CONTACT:** Kaushal Gupta, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-