

mustiness and off odors, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.

(h) *Use of approved chemicals and compounds.* (1) All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the shell eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.

(2) All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.

Dated: December 15, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04-27906 Filed 12-20-04; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 04-045-2]

#### Citrus Canker; Quarantined Areas

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the citrus canker regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. The interim rule was necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

**EFFECTIVE DATE:** The interim rule became effective on September 14, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Evans-Goldner, Assistant Staff Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1236, (301) 734-7228.

**SUPPLEMENTARY INFORMATION:**

## Background

In an interim rule effective and published in the **Federal Register** on September 14, 2004 (69 FR 55315-55320, Docket No. 04-045-1), we amended the regulations in "subpart—Citrus Canker" (7 CFR 301.75 through 301.75-16) by updating the list in § 301.75-4 of areas in the State of Florida quarantined because of citrus canker. Specifically, to reflect the detection of citrus canker in an area adjacent to but outside of one current quarantined area in Florida, as well as in eight additional counties, we expanded the boundaries of one existing quarantined area and added several new areas to the list of quarantined areas. We also removed portions of three counties from the list of quarantined areas because regular surveys showed them to have been free of citrus canker for at least 2 years. These actions were necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that were no longer warranted.

Comments on the interim rule were required to be received on or before November 15, 2004. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

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

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

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 69 FR 55315-55320 on September 14, 2004.

Done in Washington, DC, this 14th day of December, 2004.

**Elizabeth E. Gaston,**

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

[FR Doc. 04-27878 Filed 12-20-04; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 371

[Docket No. 04-120-1]

#### Delegation of Authority

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

**ACTION:** Final rule.

**SUMMARY:** This document delegates the authority given to the Administrator of the Animal and Plant Health Inspection Service to administer section 101(k) of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, more commonly known as the Act of December 22, 1987. Authority is delegated from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator of Wildlife Services. This delegation has already been made, however it is not reflected in the Code of Federal Regulations. Therefore, this document corrects that oversight.

**EFFECTIVE DATE:** December 21, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. John A. Sinclair, Staff Officer, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737-1231; (301) 734-7921.

#### SUPPLEMENTARY INFORMATION:

#### Background

On January 10, 2000, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (65 FR 1298-1302, Docket No. 97-025-1) that revised the statement of organization, functions, and delegations of authority of APHIS in 7 CFR part 371 to reflect changes in internal APHIS organization. The rule included delegations of authority from the Administrator of APHIS to the Deputy Administrator of Wildlife Services. However, we inadvertently omitted the delegation of authority from the Administrator to the Deputy Administrator of Wildlife Services for section 101(k) of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, also known as the Act of December 22, 1987. This delegation of authority had already been made, however it is not reflected in the Code of Federal Regulations. Therefore we are amending 7 CFR 371.6(b)(2) to correct this oversight.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive

Order 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### List of Subjects in 7 CFR Part 371

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ Accordingly, 7 CFR part 371 is amended as follows:

#### PART 371—ORGANIZATIONS, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 371 continues to read as follows:

**Authority:** 5 U.S.C. 301.

■ 2. In § 371.6, paragraph (b)(2) is revised to read as follows:

#### § 371.6 Wildlife Services.

\* \* \* \* \*

(b) \* \* \*

(2) Providing direction and coordination for programs authorized by the Act of March 2, 1931 (7 U.S.C. 426 and 426b, as amended) and the Act of December 22, 1987 (7 U.S.C. 426c).

\* \* \* \* \*

Done in Washington, DC, this 14th day of December, 2004.

**Elizabeth E. Gaston,**

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

[FR Doc. 04-27879 Filed 12-20-04; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 920

[Docket No. FV04-920-2 FIR]

#### Kiwifruit Grown in California; Decreased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the

assessment rate established for the Kiwifruit Administrative Committee (committee) for the 2004-05 and subsequent fiscal periods from \$0.045 per 22-pound volume-fill container or container equivalent to \$0.002 per pound of kiwifruit. The committee locally administers the marketing order which regulates the handling of kiwifruit grown in California. Authorization to assess kiwifruit handlers enables the committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective January 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Program Analyst, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487-5901; fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, fax: (202) 720-8938, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California kiwifruit handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit beginning on August 1, 2004, and continue until amended, suspended, or

terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the committee for the 2004-05 and subsequent fiscal periods from \$0.045 per 22-pound, volume-fill container or container equivalent to \$0.002 per pound of kiwifruit. The California kiwifruit marketing order provides authority for the committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the committee are producers of California kiwifruit. They are familiar with the committee's needs and the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2002-03 and subsequent fiscal periods, the committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on July 15, 2004, and unanimously recommended 2004-05 fiscal period expenditures of \$91,839 and an assessment rate of \$0.002 per pound of kiwifruit. In comparison, last fiscal period's budgeted expenditures were \$88,659. The assessment rate of \$0.002 per pound of kiwifruit is