solicitation were not met and those that identify evidence raising serious concerns that, in reaching a particular responsibility determination, the contracting officer unreasonably failed to consider available relevant information or otherwise violated statute or regulation.

(d) *Procurement integrity.* For any Federal procurement, GAO will not review an alleged violation of subsections (a), (b), (c), or (d) of sec. 27 of the Office of Federal Procurement Policy Act, 41 U.S.C. 423, as amended by sec. 4304 of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104–106, 110 Stat. 186, February 10, 1996, where the protester failed to report the information it believed constituted evidence of the offense to the Federal agency responsible for the procurement within 14 days after the protester first discovered the possible violation.

* * * * *

(i) *Suspensions and debarments.* Challenges to the suspension or debarment of contractors will not be reviewed by GAO. Such matters are for review by the contracting agency in accordance with the applicable provisions of the Federal Acquisition Regulation.

7. Amend § 21.7 by revising paragraphs (c) and (g) to read as follows:

§ 21.7 Hearings.

* * * * *

(c) Hearings generally will be conducted as soon as practicable after receipt by the parties of the agency report and relevant documents. Although hearings ordinarily will be conducted at GAO in Washington, DC, hearings may, at the discretion of GAO, be conducted at other locations, or by telephone or other electronic means.

* * * * *

(g) If a hearing is held, each party shall file comments with GAO within 5 days after the hearing was held or as specified by GAO. If the protester has not filed comments by the due date, GAO shall dismiss the protest.

* * * * *

8. Amend § 21.8 by revising paragraph (e) to read as follows:

§ 21.8 Remedies.

* * * * *

(e) The protester shall file any request that GAO recommend that costs be paid within 15 days of the date on which the protester learned (or should have learned, if that is earlier) that GAO had closed the protest based on the agency's decision to take corrective action.

* * * * *

9. Amend § 21.10 by removing paragraph (d)(3), and by revising paragraph (e) to read as follows:

§ 21.10 Express options, flexible alternative procedures, accelerated schedules, summary decisions, and status conferences.

* * * * *

(e) GAO may use flexible alternative procedures to promptly and fairly resolve a protest, including alternative dispute resolution, establishing an accelerated schedule and/or issuing a summary decision.

* * * * *

10. Amend § 21.11 by revising paragraph (b) to read as follows:

§ 21.11 Effect of judicial proceedings.

* * * * *

(b) GAO will dismiss any case where the matter involved is the subject of litigation before, or has been decided on the merits by, a court of competent jurisdiction. GAO may, at the request of a court, issue an advisory opinion on a bid protest issue that is before the court. In these cases, unless a different schedule is established, the times provided in this part for filing the agency report (§21.3(c)), filing comments on the report (§21.3(i)), holding a hearing and filing comments (§21.7), and issuing a decision (§21.9) shall apply.

11. Amend § 21.12 by revising paragraph (b) to read as follows:

§ 21.12 Distribution of decisions.

* * * * *

(b) Decisions may be distributed to the parties, and are available from GAO, by electronic means.

Anthony H. Gamboa,

General Counsel.

[FR Doc. 02–24803 Filed 9–30–02; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 97

[Doc. # ST–02–01]

RIN # 0581–AC22

Plant Variety Protection Office, Fee Increase

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to increase Plant Variety Protection (PVP) Office application, search, and certificate issuance fees by approximately 35 percent. The last fee increase in September 2000 is no longer adequate to cover current program obligations for administrative and information technology needs. The PVP Act of 1970 requires that reasonable fees be collected from applicants seeking certificates of protection in order to maintain the program.

DATES: Comments must be received on or before October 31, 2002.

ADDRESSES: Interested persons are invited to submit comments concerning this proposed rule. Comments should be sent in triplicate to Dr. Paul Zankowski, Commissioner, PVP Office, Room 401, NAL Building, 10301 Baltimore Boulevard., Beltsville, MD 20705, telephone 301–504–7475, fax 301–504–5291, and should refer to the docket title and number located in the heading of this document. Comments received will be available for public inspection at the same location, between the hours of 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Fabian Q. Generao, USDA, AMS, Science and Technology, 14th & Independence Avenue, SW., P.O. Box 96456, Room 3521-South Bldg., Washington, DC 20090–6456, Tel. 202/720–0195, Fax. 202/720–1631.

SUPPLEMENTARY INFORMATION:

I. Executive Order 12866

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget (OMB).

II. Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small business entities. There are more than 800 users of the PVPO's variety protection service, of whom about 100 may file applications in a given year. Some of these users are small business entities under the criteria established by the Small Business Administration (13 CFR 121.201). The AMS has determined that this action would not have a significant economic impact on a substantial number of these small business entities.

The Plant Variety Protection (PVP) Office administers the PVP Act of 1970, as amended (7 U.S.C. 2321 *et seq.*), and

issues Certificates of Protection that provide intellectual property rights to developers of new varieties of plants. A Certificate of Protection is awarded to an owner of a variety after examination indicates that it is new, distinct from other varieties, genetically uniform, and stable through successive generations. This action will raise the fee charged to users of plant variety protection. The AMS estimates that the proposed rule will yield an additional $270,000 during fiscal year (FY) 2003. The costs to private and public business entities will be proportional to their use of the service, and shared equitably. The costs to individual users will be approximately $1,059.00 per PVP Certificate issued or by 35 percent per application. Plant Variety Protection is a voluntary service. Any decision by developers to discontinue the use of plant variety protection will not hinder private and public entities from marketing their varieties in commercial markets.

Every year, AMS reviews it user fee financed program to determine their fiscal condition. In the most recent review of the PVP program, the cost analysis indicated that the existing fee schedule will not generate sufficient revenues to cover program services and obligations while maintaining an adequate program reserve balance. From 1995 and through 2002, the PVP Office absorbed accumulated national and locality salary increases for Federal employees totaling 36 and 19 percent, respectively. These costs were offset by a fee increase of only 10 percent in September 2000.

AMS calculated the new fee schedule by projecting FY 2002 revenues of $903,000 and program obligations of $1,231,000. This indicates projected a loss to the program of $328,000 for the FY. At this rate, the trust fund balance would be nearly depleted by the end of FY 2004. With a fee increase of 35 percent, FY 2003 revenues and expenditures are projected to be $1,041,000 and $1,189,000, respectively. The trust fund balance is expected to be maintained at the FY 2003 level of $853,000, which satisfies Agency requirements.

III. Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect, nor will it preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposed rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of the proposed rule.

IV. Paperwork Reduction Act

This proposed rule does not contain any information collection or record keeping requirements that are subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Background Information and Proposed Changes

The PVP Program is a voluntary, user fee-funded service, conducted under the Authority of the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*) of 1970, as amended. The Act authorizes the Secretary of Agriculture to provide intellectual property rights that facilitate marketing of new varieties of seed-propagated crops and potatoes. The act also requires that reasonable fees be collected from the users of the services to cover the costs of maintaining the program.

In September 2000, AMS published a rule in the **Federal Register** (60 FR 17188) that increased Plant Variety Protection Office fees pursuant to amendments to the Plant Variety Protection Act that became effective September 2000.

In its analysis of projected costs for fiscal year (FY) 2002, AMS identified administrative and information technology support as well as a 10 percent decrease in the number of applications submitted to the office. For FY 2002, user fee revenues and program obligations are projected to be $903,000 and $1,231,000, respectively, resulting in an estimated $328,000 program deficit. With a fee increase, FY 2003 revenues and expenditures are projected to be $1,041,000 and $1,189,000, respectively. We estimate this proposed rule would yield an additional $270,000 during FY 2003 that will offset increased program operating costs. The program will take additional cost cutting measures to eliminate the remaining deficit.

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

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to the proposal, including any regulatory and informational impact of this action on small businesses. Thirty days is deemed appropriate because present fees are inadequate to properly cover program costs and additional revenues need to be generated to effectively operate the program.

List of Subjects in 7 CFR Part 97

Plants, seeds.

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

PART 97—PLANT VARIETY AND PROTECTION

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

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

2. Section 97.175 is revised to read as follows:

§ 97.175 Fees and charges.

The following fees and charges apply to the services and actions specified below:

(a) Filing the application and notifying the public of filing—$432.00.

(b) Search or examination—$3,220.00.

(c) Allowance and issuance of certificate and notifying public of issuance—$432.00.

(d) Revive an abandoned application—$432.00.

(e) Reproduction of records, drawings, certificates, exhibits, or pointed material (copy per page of material)—$1.50.

(f) Authentication (each page)—$1.50.

(g) Correcting or re-issuance of a certificate—$432.00.

(h) Recording assignments (per certificate/application)—$38.00.

(i) Copies of 8 x 10 photographs in color—$38.00.

(j) Additional fee for reconsideration—$432.00.

(k) Additional fee for late payment—$38.00.

(l) Additional fee for late replenishment of seed—$38.00.

(m) Appeal to Secretary (refundable if appeal overturns the Commissioner's decision)—$4,118.00.

(n) Granting of extensions for responding to a request—$74.00.

(o) Field inspections by a representative of the Plant Variety Protection Office, made at the request of the applicant, shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulation.

(p) Any other service not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed $89.00 per employee-hour.

Dated: September 25, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–24903 Filed 9–30–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 02–026–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to amend the fruits and vegetables regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under specified conditions, for importation into the United States. All of the fruits and vegetables, as a condition of entry, would be inspected and subject to treatment at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables would be required to be treated or meet other special conditions. This action would provide the United States with additional types and sources of fruits and vegetables while continuing to protect against the introduction of quarantine pests through imported fruits and vegetables.

We are also proposing to recognize areas in several countries as free from certain fruit flies; amend the packing requirements for certain commodities; expand locations in the northeastern United States where cold treatment can be conducted; update and clarify restrictions on the entry of fruits and vegetables; update and clarify permit procedures, including amendment, denial, or withdrawal of permits; require full disclosure of fruits and vegetables at the port of first arrival and clarify the conditions under which they may be released for movement; and make other miscellaneous changes.

DATES: We will consider all comments that we receive on or before December 2, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–026–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–026–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–026–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

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

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8, referred to below as the regulations) currently prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

We propose to amend the regulations to list a number of fruits and vegetables from certain parts of the world as eligible, under certain conditions, for importation into the United States. We are proposing this action at the request of various importers and foreign ministries of agriculture.

In accordance with the Animal and Plant Health Inspection Service (APHIS) notice, ''Procedures and Standards Governing the Consideration of Import Requests,'' published in the **Federal Register** on June 19, 2001 (66 FR 32923–32928, Docket No. 00–082–1), we have conducted pest risk assessments for commodities that have not been imported previously under the regulations. For citrus from the Republic of South Africa and for peppers and tomatoes from Spain, where we are proposing to extend the area from which these commodities may be imported, we have reviewed data that demonstrates that the pest risk assessment prepared for the currently eligible areas is applicable to the new areas as well. Information on these pest risk assessments and data referred to in this document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.** Some of the pest risk assessments are also available on the Internet at *http://www.aphis.usda.gov/ppq/pra/.*

The fruits and vegetables referred to in this document would have to be imported under permit and would be subject to the requirements in § 319.56–6 of the regulations. Under § 319.56–6, all imported fruits and vegetables, as a condition of entry into the United States, must be inspected; they are also subject to disinfection at the port of first arrival if a U.S. Department of Agriculture (USDA) inspector requires it. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is so infested with quarantine pests that an inspector determines that it cannot be cleaned or treated.

Some of the fruits and vegetables proposed for importation would have to meet other special conditions. The proposed conditions of entry, which are discussed below, appear adequate to prevent the introduction and spread of quarantine pests through the importation of these fruits and vegetables.

We are proposing to make several other amendments to update and clarify the regulations and improve their effectiveness. Our proposed