

additional time it takes until growers have productive trees.

The payment to commercial growers for 2 additional fallow years would be \$828 per acre for the fourth year and \$736 per acre for the fifth year (\$1,564 total per acre). The total number of acres that would currently be eligible for additional payments because of the added fallow years is 1,400. The estimated cost if all acres are eligible for 2 additional years is \$2,189,600.

Total additional payments for direct marketers range from \$264,472 to \$348,452 depending on the number of fallow years a direct marketer would be required to wait before replanting. Table 7, page 15 summarizes the range of payments. Payments to direct marketers for the first three fallow years would increase by \$10,172 per acre from the base amount that growers receive. Direct marketers were eligible to receive the same payments as other growers so the \$10,172 represents the additional payment. Because they are among the last trees that have been removed, a three year fallow period should be sufficient to demonstrate that plum pox has been eradicated. However, in the event that additional fallow years are necessary due new detections of plum pox, direct marketers would be compensated for up to 5 (total) fallow years. They would receive \$1,710 per acre for a fourth year and \$1,520 per acre for a fifth year. There are approximately 26 acres of trees used for direct marketing that have been removed as part of the plum pox eradication program; total payments to direct marketers would increase by \$264,472, assuming the fallow period does not need to be extended. A four year fallow period for direct marketers would result in payments of \$11,882 per acre (\$10,172 + \$1,710). Total payments for 26 acres would be \$308,932. A five year fallow period for direct marketers would result in payments of \$13,402 per acre (\$10,172+\$1,710+\$1,520). Total payments for 26 acres would be \$348,452.

This proposed rule also addresses the issue of trees less than one year old. Some growers have received destruction orders for trees that had been planted the same year. These trees did not go through one harvest season and are sometimes referred to as zero year trees. The original compensation program made no provision for these trees. However, growers that have had trees less than one year old destroyed have incurred costs. Based on input from cooperative extension agents and Pennsylvania State University, we have concluded that a fair rate of compensation for these trees is \$2,403

per acre for a three year fallow period. There are at least 43 acres of zero year trees that have been removed as part of the plum pox eradication program; total payments to growers of zero year trees would increase by \$103,329.

As stated earlier in this document, these proposed changes are necessary to provide adequate compensation to persons affected by the plum pox quarantine and eradication efforts associated with the quarantine. Persons affected by the quarantine would, in all cases, benefit from adoption of this proposed rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 00-035-2. Please send a copy of your comments to: (1) Docket No. 00-035-2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed 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 proposed 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 0.6667 hours per response.

*Respondents:* Owners of stone fruit orchards and fruit tree nurseries in Pennsylvania.

*Estimated annual number of respondents:* 3.

*Estimated annual number of responses per respondent:* 1.

*Estimated annual number of responses:* 3.

*Estimated total annual burden on respondents:* 2 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### **Government Paperwork Elimination Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.