

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 95-086-1]

#### Citrus Canker Regulations; Quarantined Areas

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the citrus canker regulations by quarantining an area in Dade County, FL. This action is necessary on an emergency basis to prevent the spread of citrus canker into noninfested areas of the United States. This action imposes certain restrictions on the interstate movement of regulated articles from and through the quarantined area.

**DATES:** Interim rule effective January 16, 1996. Consideration will be given only to comments received on or before March 22, 1996.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 95-086-1, 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. 95-086-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134,

Riverdale, MD 20737-1236, (301) 734-8899.

#### SUPPLEMENTARY INFORMATION:

##### Background

Citrus canker is a plant disease known to affect plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of infected plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75-1 through 301.75-14 (referred to below as "the regulations"). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker. The regulations also provide for the designation of survey areas around quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as containment or buffer zones against the disease.

Section 301.75-4(c) of the regulations states that any State or portion of a State where an infestation is detected will be designated as a quarantined area and will remain so until the area has been without infestation for 2 years.

Section 301.75-4(d) of the regulations states that less than an entire State will be designated as the quarantined area only if certain conditions are met. The conditions include the inspection of areas designated as survey areas. Additionally, the State must, with certain specified exceptions, enforce restrictions on the intrastate movement of regulated articles from the quarantined area that are at least as stringent as those being enforced on the interstate movement of regulated articles from the quarantined area.

Prior to the publication of this document, there were no areas in the United States designated as quarantined areas or survey areas for citrus canker. On September 28, 1995, however, employees of the State of Florida

collected samples of the Asiatic strain of citrus canker from residential citrus trees in the Westchester area of Miami, FL. As a result, we determined that a portion of Dade County, FL, must be designated as a quarantined area for citrus canker. Additionally, we have determined that the State of Florida is enforcing restrictions on the intrastate movement of regulated articles from that area in Dade County that are at least as stringent as those for the interstate movement of regulated articles from the area.

Accordingly, we are amending the regulations by designating a portion of Dade County, FL, as a quarantined area. Citrus canker has been found in approximately 24 square miles of Dade County, FL, but, as a precaution, we have established a quarantined area that comprises approximately 140 square miles of Dade County, FL. As the small infested area lies at the core of the quarantined area and constitutes less than 18 percent of the quarantined area, we have determined that establishing a separate survey area is unnecessary in this case.

At this stage of the infestation, we believe that expanding the quarantined area to include a buffer zone, rather than establishing a separate, less restricted survey area, will enhance our ability to detect and control further occurrences of citrus canker in and around the infested area. This is because, as the new findings of citrus canker were detected in a highly populated residential area, we expect that over the course of the next several months, citrus canker may be detected on additional properties in the general vicinity of the original findings. The extended quarantined area will allow us to contain the spread of the citrus canker more effectively than our traditional quarantined area surrounded by a less stringently regulated survey area and will eliminate the possibility of constant changes to the regulations to amend the boundaries of the quarantined area and the survey area to accommodate new findings of citrus canker. We believe that in addition to preventing the spread of citrus canker within the regulated area, this action will provide more consistent boundaries for the quarantined area. The exact description of the newly quarantined area can be found in the rule portion of this document.

In light of a review of recent scientific literature, we are also revising the definition of citrus canker to reflect current taxonomic nomenclature. Citrus canker has been defined as a plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri*. The new definition will state that citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas axonopodis* pv. *citri*. In July of 1995, the scientific name of the strains of bacteria that cause the citrus canker that is regulated was changed. *Xanthomonas axonopodis* pv. *citri* is actually the same organism with the same characteristics that we refer to in the current regulations. The change in nomenclature involves a change in the species portion of scientific name only; *Xanthomonas campestris* pv. *citri* has simply been placed in another species grouping based on an extensive review of species characteristics.

#### 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 prevent citrus canker from spreading into noninfested areas of the United States.

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 it effective upon signature. 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. It 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. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this interim rule on small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in

determining the number and kind of small entities that may incur benefits or costs from the implementation of this interim rule.

The Plant Quarantine Act, contained in 7 U.S.C. 151–165 and 167, authorizes the Secretary of Agriculture to quarantine States or portions of States and to promulgate regulations to prevent the spread of dangerous plant diseases new to or not widely prevalent in the United States.

We are amending the citrus canker regulations by amending the definition of citrus canker and by quarantining an area in Dade County, FL. This action imposes restrictions on the interstate and intrastate movement of citrus plants, plant parts, citrus fruit, and other regulated articles from and through the quarantined area.

Within the newly regulated area, there are approximately 2,275 entities that could be affected by this interim rule. These entities consist of 375 nurseries and stockdealers, 300 fresh fruit retail stores, one large flea market, and 1,600 lawn maintenance businesses. Most of the sales or services provided by these entities are local or specifically within the regulated area.

The nurseries and stockdealers affected by this interim rule will be required to undergo periodic inspections. These inspections may be inconvenient, but the inspections will not result in any additional costs for the nurseries or stockdealers because APHIS or the State of Florida will provide the services of the inspector without cost to the nursery or stockdealer. Should the inspector discover citrus canker in any of the regulated plants or trees within the nursery or stockdealer's premises, then the nursery or stockdealer may have to incur the cost of destroying the infected plants or trees and will, in any case, be deprived of the opportunity to benefit from the sale of infected regulated plants and trees. However, because citrus canker is currently limited to residential properties, we expect the cost of compliance for nurseries and stockdealers to be minimal.

The fresh fruit retailers and the flea market dealers affected by this interim rule will be required to abide by restrictions on the interstate and intrastate movement of regulated articles. They may be affected by this interim rule because fruit sold within the quarantined area in retail stores and at the flea market cannot be moved outside of the quarantined area. However, we expect any direct costs of compliance for fresh fruit retailers and flea market dealers to be minimal.

The lawn maintenance companies affected by this interim rule will be required to perform additional safety measures when maintaining an area inside the quarantined area. Lawn maintenance companies will have to clean and disinfect their equipment after grooming an area within the quarantined area, and they must properly dispose of any clippings from plants or trees within the quarantined area. These requirements will slightly increase costs for lawn maintenance companies affected by this interim rule.

The alternative to this interim rule was to make no changes in the citrus canker regulations. We rejected this alternative because failure to quarantine a portion of Dade County, FL, could result in great economic losses for domestic citrus producers.

#### 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 12778

This rule has been reviewed under Executive Order 12778, 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.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for our conclusion that the selected citrus canker eradication program will not present a risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA

Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under "FOR FURTHER INFORMATION CONTACT."

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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

Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.75-1, the definition of *Citrus canker* is revised to read as follows:

##### § 301.75-1 Definitions.

\* \* \* \* \*

*Citrus canker*. A plant disease caused by strains of the bacterium *Xanthomonas axonopodis* pv. *citri*.

\* \* \* \* \*

3. In § 301.75-4, paragraph (a) is revised to read as follows:

##### § 301.75-4 Quarantined areas.

(a) The following States or portions of States are designated as quarantined areas:

#### FLORIDA

*Dade County*. That portion of Dade County within the following boundaries: Beginning at the point on the shore line of Biscayne Bay that is directly south of and in line with W 17th Avenue; then north to W 17th Avenue; then north along W 17th Avenue to State Route 916; then west along State Route 916 to the Palmetto Expressway; then south along the

Palmetto Expressway to NW 58th Street; then west along NW 58th Street to NW 177 Avenue (Krome Avenue); then south along NW 177 Avenue to SW 88th Street (Kendall Drive); then east along SW 88th Street to Biscayne Bay; then north along the shore line of Biscayne Bay to the point of beginning.

\* \* \* \* \*

4. In § 301.75-4, paragraph (d)(1) is revised to read as follows:

##### § 301.75-4 Quarantined areas.

\* \* \* \* \*

(d) \* \* \*

(1) *Survey*. No area has been designated a survey area.

\* \* \* \* \*

Done in Washington, DC, this 16th day of January 1996.

Terry L. Medley,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96-662 Filed 1-19-96; 8:45 am]

BILLING CODE 3410-34-P

#### 7 CFR Part 301

[Docket No. 95-026-2]

#### Pink Bollworm Regulated 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 pink bollworm regulations by removing portions of Clay, Crittenden, and Mississippi Counties in Arkansas from the list of suppressive areas for pink bollworm. Trapping surveys show that the pink bollworm no longer exists in these areas. The interim rule relieved unnecessary restrictions on the interstate movement of regulated articles from these previously regulated areas.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Coanne O'Hern, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8717.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective and published in the Federal Register on August 28, 1995 (60 FR 44415-44416, Docket No. 95-026-1), we amended the pink bollworm regulations in 7 CFR 301.52 through 301.52-10 by removing certain portions of Clay, Crittenden, and

Mississippi Counties in Arkansas from the list of suppressive areas for pink bollworm. That action relieved unnecessary restrictions on the interstate movement of regulated articles from these previously regulated areas.

Comments on the interim rule were required to be received on or before October 27, 1995. We did not receive any comments. The facts presented in the interim rule still provide a basis for the 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 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by 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 301 and that was published at 60 FR 44415-44416 on August 28, 1995.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 16th day of January 1996.

Terry L. Medley,

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

[FR Doc. 96-663 Filed 1-19-96; 8:45 am]

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#### DEPARTMENT OF STATE

#### Bureau of Consular Affairs

#### 22 CFR Part 41

[Public Notice 2318]

#### Visas Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Application for Nonimmigrant Visa

AGENCY: Bureau of Consular Affairs, State.

ACTION: Final rule.

SUMMARY: The United States is hosting the Summer Olympic Games in Atlanta in 1996. The processing of visas for the