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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00-037-3]

Citrus Canker; Payments for Commercial Citrus Tree Replacement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with one change, an interim rule that amended our citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves may receive payments to replace commercial citrus trees removed because of citrus canker. The interim rule that provided for the payment of those funds was necessary to reduce the economic effect of the citrus canker quarantine on affected commercial citrus growers.

EFFECTIVE DATE: August 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects 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 can also cause lesions on the fruit of infected plants, which renders the fruit unmarketable, and cause infected fruit to drop from the 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 and provide conditions under which regulated fruit may be moved into, through, and from quarantined areas for packing. The regulations currently list parts of Broward, Collier, Dade, Hendry, Hillsborough, and Manatee Counties, FL, as quarantined areas for citrus canker.

In an interim rule effective and published in the **Federal Register** on October 16, 2000 (65 FR 61077-61080, Docket No. 00-037-1), we amended the regulations to provide for the payment of tree replacement funds to eligible owners of commercial citrus groves who have had citrus trees destroyed because of citrus canker. These provisions, which are intended to reduce the economic effect of the citrus canker quarantine on affected commercial citrus growers, were added to the regulations as a new section, § 301.75-15.

We solicited comments concerning our proposal for 60 days ending on December 15, 2000. We received two comments by that date. They were from the Florida Lime Administrative Committee and a citrus grower cooperative.

One commenter pointed out an error in the economic information presented in the interim rule's background section. Specifically, we stated that Florida accounted for 72.72 percent of domestic lime production in 1997-1998. The commenter stated that Florida actually accounted for 100 percent of U.S. lime production during that period. The commenter is indeed correct; the National Agricultural Statistics Service's "Agricultural Statistics 2000" indicates that Florida produced 100 percent of domestically grown limes in both the 1997-1998 and 1998-1999 growing seasons. However, as Florida's share of lime production does not have an effect on the provisions of § 301.75-15, no changes to this rule are necessary as a result of that comment.

The second commenter stated that the \$26 per tree payment provided for by the rule was too high and offered information to support that contention. We continue to believe that the \$26 per tree payment, which is the same amount developed by the Department's Risk Management Agency for trees covered by the Florida Fruit Tree Pilot Crop Insurance Program, is appropriate, especially with the per-acre payment caps provided by the interim rule. Perhaps more importantly, however, \$26 is the per-tree payment amount that the Department was directed to pay under Sec. 810(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106-387). Given that our FY 2001 appropriations act specifically directs us to pay \$26 per tree, subject to the per-acre caps provided in the act (which were used in the interim rule), we will not make any changes to § 301.75-15 in this final rule as a result of that comment.

The interim rule contained a requirement that claims for trees destroyed on or before the effective date of the rule (October 16, 2000) must be received within 60 days after the effective date of the rule (*i.e.*, by December 15, 2000), and that claims for trees destroyed after the effective date of the rule must be received within 60 days after the destruction of the trees. After the interim rule was published, State officials in Florida attempted to contact all eligible grove owners to inform them of their eligibility to present claims. We were subsequently informed by State officials that they had been unable to locate some grove owners in a timely manner, in most cases because the person had sold the property and/or had moved out of State. As a result, some eligible grove owners were not notified until shortly before or even after the deadline for claims. In order to provide us with the flexibility needed to address this situation, we are amending the regulations in § 310.75-15(c) regarding the submission of tree replacement claims to provide that the Administrator may, on a case-by-case basis, approve the consideration of late claims when it appears that the claim was late through no fault of the owner of the trees, in the opinion of the Administrator. This change will provide for the consideration of late claims for

up to 1 year after the effective date of this rule, in the case of trees destroyed on or before that effective date, or up to 1 year after the destruction of the trees in the case of trees destroyed after the effective date of this rule.

In this final rule, we are also amending § 301.75-15(c) to reflect the new address of the USDA Citrus Canker Eradication Program. Further, where that paragraph in the interim rule had referred to "the effective date of this rule" and "60 days after the effective date of this rule," we have replaced those references with the actual dates (i.e., October 16, 2000, and December 15, 2000, respectively).

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

This final rule also affirms the information contained in the interim rule concerning Executive Orders 12372 and 12988 and the economic analysis under Executive Order 12866 and the Regulatory Flexibility Act.

This 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.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. The interim rule adopted as final by this rule was effective on October 16, 2000. This rule amends the provisions of the interim rule regarding the due date for the submission of applications for tree replacement payments. Immediate action is necessary to enable the Administrator to approve the consideration of late claims when it appears the claim was late through no fault of the owner of the trees, in the Administrator's opinion. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in the interim rule were granted emergency approval by the Office of Management and Budget (OMB) under control number 0579-0163. OMB has approved the

continuation of that approval for 3 years.

List of Subjects in 7 CFR Part 301

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

Accordingly, the interim rule amending 7 CFR part 301 that was published at 65 FR 61077-61080 on October 16, 2000, is adopted as a final rule with the following changes:

PART 301—DOMESTIC QUARANTINE NOTICES

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

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.75-15, paragraph (c) is revised to read as follows:

§ 301.75-15 Funds for the replacement of commercial citrus trees.

* * * * *

(c) *How to apply for tree replacement funds.* The form necessary to apply for funds to replace commercial citrus trees may be obtained from any local citrus canker eradication program office in Florida, or from the USDA Citrus Canker Eradication Program, 6901 West Sunrise Boulevard, Plantation, FL 33313. The completed application should be accompanied by a copy of the public order directing the destruction of the trees and its accompanying inventory that describes the number and the variety of trees removed. Your completed application must be sent to the USDA Citrus Canker Eradication Program, Attn: Commercial Tree Replacement Program, c/o Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, FL 33881. Claims for trees destroyed on or before October 16, 2000, must have been received on or before December 15, 2000. Claims for trees destroyed after October 16, 2000, must be received within 60 days after the destruction of the trees. The Administrator may, on a case-by-case basis, approve the consideration of late claims when it appears that the claim was late through no fault of the owner of the trees, in the opinion of the Administrator. However, any request for consideration of a late claim must be submitted to the Administrator on or before August 19, 2002 for trees

destroyed on or before August 17, 2001, and within 1 year after the destruction of the trees for trees destroyed after August 17, 2001.

* * * * *

Done in Washington, DC, this 13th day of August 2001.

Bobby R. Acord,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01-20779 Filed 8-16-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NM-235-AD; Amendment 39-12389; AD 2001-16-20]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-200 Series Airplanes Modified by Supplemental Type Certificate SA5134NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767-200 series airplanes modified by supplemental type certificate SA5134NM, that requires modification of the in-flight entertainment (IFE) system. This action is necessary to prevent the inability of the flight crew to remove power from the IFE system when necessary. Inability to remove power from the IFE system during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective September 21, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Flight Structures, Inc., 4407 172nd Street NE., Arlington, Washington 98223. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.