

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 1001

RIN 3206 AJ69

#### OPM Employee Responsibilities and Conduct

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a plain language rewrite of its regulations regarding the standards that govern OPM employee responsibilities and conduct as part of a review of certain OPM regulations. The purpose of the revisions is to make the regulations more readable.

**DATES:** *Effective Date:* August 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Wade Plunkett, by telephone at 202-606-1700; by FAX at 202-606-0082; or by e-mail at [wmplunke@opm.gov](mailto:wmplunke@opm.gov).

**SUPPLEMENTARY INFORMATION:** OPM is revising part 1001, which deals with OPM employee responsibilities and conduct, as part of a review of certain OPM regulations for plain language purposes. On November 20, 2002, OPM issued a proposed rule (67 FR 70029). Since no comments were received, we are publishing the proposed rule as final with one minor clarifying modification. The purpose of this revision to part 1001 is not to make substantive changes, but rather to make part 1001 more readable, and to convert the regulation to a question-and-answer format.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal employees.

#### E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

#### List of Subjects in 5 CFR Part 1001

Conflict of interests.

Office of Personnel Management.

**Linda M. Springer,**

*Director.*

■ Accordingly, OPM is revising subchapter C consisting of part 1001 as follows:

#### Subchapter C—Regulations Governing Employees of the Office of Personnel Management

#### PART 1001—OPM EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

1001.101 In addition to this part, what other rules of conduct apply to Office of Personnel Management employees?

1001.102 What are the Privacy Act rules of conduct?

**Authority:** 5 U.S.C. 552a, 7301.

#### PART 1001—OPM EMPLOYEE RESPONSIBILITIES AND CONDUCT

##### § 1001.101 In addition to this part, what other rules of conduct apply to Office of Personnel Management employees?

In addition to the regulations contained in this part, employees of the Office of Personnel Management should refer to:

(a) The Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture regulations at 5 CFR part 2634;

(b) The Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635;

(c) The Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees regulations at 5 CFR part 2636;

(d) Regulations Concerning Post Employment Conflict of Interest at 5 CFR part 2637;

(e) Post-employment Conflict of Interest Restrictions regulations at 5 CFR part 2641;

(f) The Supplemental Standards of Ethical Conduct for Employees of the Office of Personnel Management at 5 CFR part 4501;

(g) The Employee Responsibilities and Conduct regulations at 5 CFR part 735;

(h) The restrictions upon use of political referrals in employment matters at 5 U.S.C. 3303.

##### § 1001.102 What are the Privacy Act rules of conduct?

(a) An employee shall avoid any action that results in the appearance of using public office to collect or gain access to personal data about individuals beyond that required by or authorized for the performance of duties.

(b) An employee shall not use any personal data about individuals for any purpose other than as is required and authorized in the performance of assigned duties. An employee shall not disclose any such information to other agencies or persons not expressly authorized to receive or have access to such information. An employee shall make any authorized disclosures in accordance with established regulations and procedures.

(c) Each employee who has access to or is engaged in any way in the handling of information subject to the Privacy Act, 5 U.S.C. 552a, shall be familiar with the regulations of this subsection as well as the pertinent provisions of the Privacy Act relating to the treatment of such information.

[FR Doc. E6-12370 Filed 7-31-06; 8:45 am]

**BILLING CODE 6325-48-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS-2006-0114]

RIN 0579-AC07

#### Citrus Canker; Quarantine of the State of Florida

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

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

**SUMMARY:** We are amending the citrus canker regulations to list the entire State of Florida as a quarantined area for citrus canker and to amend the requirements for the movement of regulated articles from Florida now that the eradication of citrus canker in Florida is no longer being carried out as

an objective. We are also amending the regulations to allow regulated articles that would not otherwise be eligible for interstate movement to be moved to a port for immediate export. These changes are necessary in light of the Department's determination that the established eradication program was no longer a scientifically feasible option to address citrus canker.

**DATES:** This interim rule is effective August 1, 2006. We will consider all comments that we receive on or before October 2, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select APHIS-2006-0114 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0114, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0114.

*Reading Room:* 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.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Poe, Senior Operations Officer, EDP, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1231; (301) 734-4387.

**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 render 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 §§ 301.75-1 through 301.75-14 of "Subpart—Citrus Canker" in Title 7 of the Code of Federal Regulations. These 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. These regulations are promulgated pursuant to the Plant Protection Act (7 U.S.C. 7701 *et seq.*).

The regulations in §§ 301.75-15 through 301.75-17 of "Subpart—Citrus Canker" provide for the payment of compensation for losses due to citrus canker eradication activities under certain conditions. For commercial citrus groves, § 301.75-15 addresses compensation for commercial citrus trees and § 301.75-16 focuses on compensation for the recovery of lost production income. For citrus nurseries, § 301.75-17 addresses compensation for certified nursery stock. These compensation regulations were promulgated to implement several appropriations statutes enacted beginning in 2000.

The regulations governing the movement of regulated articles were first promulgated in 1984, at a time when citrus canker had very limited distribution within Florida. Although the regulations have been amended several times since then, the approach of the regulations has remained the same, i.e. to quarantine those areas where the disease was found and promote eradication efforts while allowing the normal movement of regulated fruit and other articles from those areas where the disease was not present.

The exceptionally active hurricane seasons in 2004 and 2005 were devastating to the citrus canker eradication program. Recent surveys

show that citrus canker has become so widespread within Florida that approximately 75 percent of commercial groves in the State are now located within 5 miles of a location where the disease has been detected, which is well within the range that the disease could be spread by future hurricanes or other tropical storms. With a significant portion of the commercial citrus acreage in the State now either infected with citrus canker or at high risk of becoming infected, it became apparent that it would no longer be possible to identify and quarantine infected citrus acreage quickly enough to prevent further spread of the disease. Because of this situation, on January 10, 2006, the U.S. Department of Agriculture (USDA) announced that it had determined that the established eradication program was no longer a scientifically feasible option to address citrus canker.

In response to the widespread establishment of citrus canker in Florida, as well as other challenges to the citrus industry, key stakeholders in citrus protection and production discussed various options from which came the concept of a Citrus Health Response Program. This approach concentrates on the development and implementation of minimum standards for citrus inspection, regulatory oversight, disease management and education and training.

At the same time, there is an immediate need to amend the regulations pertaining to citrus canker. The regulations currently include certain provisions that are necessary for the regulatory program when eradication is its goal but, in the case of Florida, they are no longer appropriate as the program shifts its efforts to enabling the commercial citrus industry to produce, harvest, process, and ship healthy fruit in the presence of citrus canker. Our specific amendments are described in the following paragraphs. One result of these changes is that fruit produced in Florida is no longer eligible for movement into commercial citrus-producing areas listed in § 301.75-5.

The regulations in § 301.75-4(a) have listed portions of 12 Florida counties as quarantined areas. Because eradication is no longer being pursued in Florida, the level of survey activity has dropped below the level necessary to maintain accurate and up-to-date quarantine boundaries. Therefore, we are amending § 301.75-4(a) by removing the individual quarantined area descriptions and replacing them with an entry designating the entire State of Florida as a quarantined area for citrus canker.

Paragraph (d) of § 301.75-4 spells out the conditions that must be met in order for less than an entire State to be designated as a quarantined area. With our designation of the entire State of Florida as a quarantined area for citrus canker, those conditions will no longer apply to the movement of fruit and other regulated articles within that State. However, given that quarantining less than an entire State is compatible with an eradication-focused regulatory program, we will retain the provisions of § 301.75-4(d) so that they will be available in the future if needed (e.g., in the event that circumstances change in Florida again or citrus canker appears in another commercial citrus-producing State). As noted previously, the regulations have also included certain other provisions that were necessary for the regulatory program when eradication was its goal; in this document, we have taken those provisions out of the requirements that generally apply to quarantined areas and have moved them into § 301.75-4(d) so that they, like the other provisions of that paragraph, will be available in the future if needed.

Specifically, the regulations in § 301.75-6 spell out the conditions that must be met in order for any regulated articles to be moved interstate from a quarantined area. Paragraph (a)(1) of that section has required that every regulated plant and regulated tree, except indoor houseplants and regulated plants and regulated trees at nurseries, be inspected for citrus canker at least once a year, between May 1 and December 31. In addition, paragraph (a)(2) of that section has required that every regulated plant and regulated tree at every nursery containing regulated plants or regulated trees in the quarantined area be inspected for citrus canker by an inspector at intervals of no more than 45 days. This level of inspection is necessary for a regulatory program focused on eradication but it is no longer appropriate in all cases given the current circumstances. Therefore, we are moving those requirements from § 301.75-6 to § 301.75-4(d).

Similarly, we are moving paragraph (c) of § 301.75-6, which requires a State issued order of destruction and compliance with that order, within 45 days, of regulated plants or regulated trees found to be infected, to § 301.75-4(d). Tree removal is a necessary component of an eradication program, but may not be appropriate in every case under the current circumstances.

Paragraph (b) of § 301.75-6 requires that all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related

services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated upon leaving a grove or premises in a quarantined area, as must all personnel who provide those services. We believe it is appropriate to continue to require the treatment of equipment and personnel involved in inspection, maintenance, harvesting, and related activities in all groves, so we will retain those provisions in § 301.75-6. However, we believe the requirements regarding landscaping services are necessary for a regulatory program focused on eradication, but it is no longer appropriate in all cases given the current circumstances, so we are moving those specific provisions to § 301.75-4(d).

Section 301.75-7 spells out the requirements that must be met in order for regulated fruit to be moved from a quarantined area. Paragraph (a)(2) of that section requires that the grove producing the regulated fruit must have been free of citrus canker for the previous 2 years, and that any exposed plants in the grove at high risk for developing citrus canker have been destroyed. The paragraph also describes the circumstances under which the exposed plants would be considered to be at high risk for developing citrus canker. These provisions are necessary for a regulatory program focused on eradication but are no longer appropriate in all cases given the current circumstances. Therefore, we are moving them to § 301.75-4(d).

The regulations in §§ 301.75-6 and 301.75-7 refer in several places to inspections conducted on foot or by walking through the grove. In this document, we have removed those references in order to allow inspections to be conducted by other means, such as by motorized 4-wheel drive vehicles. Surveys conducted while walking could still be conducted. Quality evaluations have shown that inspection by motorized 4-wheel drive vehicles is as accurate in detecting citrus canker as inspections by walking.

As stated above, one result of quarantining the entire State of Florida is that fruit produced in that State is no longer eligible for movement into commercial citrus-producing areas listed in § 301.75-5. In order to make this clear, we are adding a requirement to § 301.75-7(a)(5) that boxes or other containers in which the fruit is packaged must be clearly marked with the statement "Not for distribution in AZ, CA, HI, LA, TX, and American Samoa, Guam, Northern Mariana

Islands, Puerto Rico, and Virgin Islands of the United States."

In addition to the changes described above, we are also adding provisions to § 301.75-7 that will allow regulated fruit that is not otherwise eligible for movement in the United States to be moved interstate from Florida directly to a port for export. The regulated fruit will have to be accompanied by a limited permit issued in accordance with § 301.75-12 and moved in a container sealed by APHIS directly to the port of export in accordance with the conditions of the limited permit.

Similarly, we have added provisions to § 301.75-6 to allow regulated plants produced in a nursery located in a quarantined area that do not meet the conditions for movement in § 301.75-6(a) to be moved interstate for immediate export. The regulated plants must be accompanied by a limited permit issued in accordance with § 301.75-12 and must be moved in a container sealed by APHIS directly to the port of export in accordance with the conditions of the limited permit.

These provisions are necessary to provide regulatory relief to growers, packers, and others who are adversely affected by new and existing restrictions on the movement of citrus due to citrus canker, while still continuing to protect against the spread of citrus canker to noninfested areas of the United States.

#### Immediate Action

Immediate action is necessary to quarantine the entire State of Florida because citrus canker has become widespread in the State and eradication is no longer scientifically feasible. Immediate action is also warranted to amend certain requirements that are no longer applicable now that the eradication of citrus canker in Florida is no longer being undertaken as an objective and to provide for the movement of regulated fruit from Florida to certain ports for immediate export. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This interim rule amends the citrus canker regulations to list the entire State of Florida as a quarantined area and to amend the requirements for the movement of regulated articles from Florida now that the eradication of citrus canker in Florida is no longer being carried out as an objective. This interim rule also amends the regulations to allow regulated articles that would not otherwise be eligible for interstate movement to be moved to a port for immediate export. These changes are necessary in light of the Department's determination that the established eradication program was no longer a scientifically feasible option to address citrus canker.

For this rule, we have prepared an economic analysis. The economic analysis provides a cost-benefit analysis as required by Executive Order 12866 and includes an initial regulatory flexibility analysis examining the potential economic effects of this rule on small entities, as required under 5 U.S.C. 603. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) and may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Section 301.75-5 of the regulations lists the designated commercial citrus-producing areas as American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the U.S. Virgin Islands. Of these 11 citrus-producing U.S. States and territories, only five States received fresh citrus shipments from Florida during the 2003-04 and 2004-05 seasons: Arizona, California, Florida, Louisiana, and Texas. In the economic analysis, U.S. citrus-producing areas other than Florida are referred to as other citrus-producing States.

The overall objective of this interim rule is to prevent the spread of citrus canker to other citrus-producing States, effectively mitigating the costs associated with control or eradication of the disease and compensation of citrus producers for loss of trees and income. The likely results of the rule will be positive net benefits. Citrus produced in California, Texas, Arizona, and

Louisiana is largely intended for the fresh market. These States would risk a reduction in the production of fruit intended for the fresh market with the establishment of citrus canker due to lesions on the fruit resulting from citrus canker infestation. In addition, citrus producers in these States could face increased costs of production, and producers and packers would be subject to the same trade requirements of other countries as Florida citrus producers and packers. Additional inspections for citrus canker in these States would result in increased public costs. Costs forgone by preventing the introduction of citrus canker to other citrus-producing States are expected to outweigh costs of the statewide quarantine for Florida's citrus industry.

### U.S. Citrus Production

The major citrus varieties produced in Florida are early, mid, and late season orange varieties, red and white seedless grapefruit, navels, early tangerines, honey tangerines, temples, and tangelos. Although approximately 89 percent of all Florida citrus is processed, utilization of production is highly dependent upon the variety.

Approximately 95 percent of all Florida orange production is intended for the processing sector, whereas nearly 75 percent of Florida tangerine production is utilized on the fresh market. During the 2004-05 season, nearly 58 percent of Florida grapefruit production was utilized on the fresh market. During previous seasons, approximately 40 percent had been sold as fresh fruit, suggesting that Florida grapefruit normally intended for the processing sector was diverted to the fresh market in response to the post-hurricane higher prices.

The major citrus varieties produced in California are navel and Valencia oranges, grapefruit, tangerines, and lemons. Approximately 78 percent of California citrus was utilized on the fresh market during the 2004-05 season. Over 79 percent of all oranges produced in California in the 2004-05 season were produced for the fresh market. Additionally, almost 90 percent of grapefruit, 86 percent of tangerines, and 71 percent of lemons were produced for the fresh market. Clearly, production in California is primarily for the fresh market.

The citrus varieties produced in Texas during the 2004-05 season were grapefruit, Valencia oranges, and midseason oranges. Fresh production accounted for approximately 52 percent of total production. Valencia and midseason orange production was destined primarily for the fresh market,

accounting for 70 percent of total production. However, grapefruit production was mainly destined for the processed market, with 47 percent utilized on the fresh market.

Arizona produces Valencia and navel oranges, grapefruit, tangerines, and lemons. Approximately 62 percent of Arizona citrus was utilized on the fresh market during the 2004-05 season. Of this, approximately 77 percent of oranges were produced for the fresh market. All grapefruit produced in Arizona during the 2004-05 season, 81 percent of tangerine production, and 55 percent of lemon production went to the fresh market.

Total and domestic shipments of Florida fresh citrus declined in the 2004-05 season from the previous season by 42 percent and 29 percent, respectively. Fresh grapefruit had the largest share of total shipments of fresh Florida citrus including exports, while oranges accounted for the State's largest share of total domestic shipments.

Approximately 5.7 percent of Florida domestic fresh fruit shipments (nearly 4 percent, including exports) were transported to other citrus-producing States during the 2004-05 season. California received approximately 3 percent of total Florida fresh citrus shipments during the 2004-05 season. Shipments of tangerines and tangelos to other citrus-producing States represented about 14 percent of Florida's domestic shipments, a much higher percentage than for grapefruit (less than 2 percent) or oranges and temples (4.3 percent).

### Florida's Loss of Access to Other Citrus-Producing States

Florida's loss of market access to other citrus-producing States is expected to affect the citrus industries in Florida and in these other States. We use a partial equilibrium model to compute expected impacts on Florida as a result of the State-wide quarantine. For the other citrus-producing States, we qualitatively assess likely impacts using available statistics because baseline and shipment data are not available.

### Expected Effects for Florida

Baseline data for Florida as a domestic fresh citrus supplier are shown in table 1, for the three categories of citrus analyzed. Demand is modeled as Florida's consumption of fresh citrus produced within the State. It is based on 2004-05 fresh citrus shipments within Florida. Supply is modeled as Florida's production of fresh citrus for the 2004-05 season, as reported in the 2004-05 Florida Citrus Summary. Grower price

is the fresh on-tree price for Florida citrus, by variety, also reported in the 2004–05 Florida Citrus Summary.

TABLE 1.—BASELINE DEMAND, SUPPLY AND PRICES FOR FLORIDA FRESH CITRUS, BY VARIETY <sup>1</sup>

	Grapefruit	Oranges and temples	Tangerines and tangelos
Demand (kg) .....	14,783,800	36,250,800	18,161,650
Supply (kg) .....	286,026,000	309,916,800	163,201,800
Grower price (\$/kg) .....	\$0.51	\$0.17	\$0.35

<sup>1</sup> “Florida Fresh Citrus Shipments 2004–05 Annual Report,” Economic and Market Research Department, Florida Department of Citrus, September 2005. and “Citrus Summary 2004–05,” Florida Agricultural Statistic Service, USDA, NASS, Florida Field Office.  
**Note:** Demand represents Florida consumption of its own production. Supply represents Florida’s total production.

Based on annual data, the economic impacts and welfare effects of the interim rule are summarized in table 2 for the loss of market access of Florida fresh citrus shipments to other citrus-producing States. For each of the three categories of fresh citrus, the decrease in shipments because of the interim rule (loss of markets in the other citrus-producing States) will cause price

declines. Florida production will fall and Florida consumption will rise in response to the lower prices. For fresh grapefruit, the estimated producer welfare losses are estimated at \$1.8 million, while consumer welfare gains are expected to reach nearly \$93,000, yielding a net welfare loss of about \$1.7 million. For fresh oranges and temples, producer losses are

estimated at \$2.8 million, while consumer surplus gains are expected to reach approximately \$336,000, for a net welfare loss of about \$2.5 million. For fresh tangerines and tangelos, producer losses are estimated at \$8.2 million, while consumer surplus gains are expected to reach \$1.2 million, and net welfare losses are estimated at \$7.1 million.

TABLE 2.—ESTIMATED ECONOMIC EFFECTS OF A DECLINE IN FLORIDA FRESH CITRUS SHIPMENTS EQUIVALENT TO THE QUANTITIES SHIPPED TO OTHER CITRUS-PRODUCING STATES IN THE 2004–05 SEASON

	Grapefruit	Oranges and temples	Tangerines and tangelos
Decrease in fresh citrus shipments (kg) .....	1,525,700	4,120,800	20,767,300
Output data:			
Percentage change in price .....	– 1.23	– 5.33	– 15.00
Change in price (per kg) .....	(\$0.01)	(\$0.01)	(\$0.05)
Percent change in quantity demanded .....	0.57	4.53	46.95
Estimated change in quantity demanded .....	83,571	1,642,611	8,527,006
Percent change in quantity supplied .....	– 0.50	– 0.80	– 7.50
Estimated change in quantity supplied .....	(1,441,129)	(2,478,189)	(12,240,294)
Welfare effects:			
Change in consumer surplus .....	\$92,917	\$335,965	\$1,177,336
Change in producer surplus .....	(\$1,788,107)	(\$2,797,385)	(\$8,246,894)
Net change in welfare .....	(\$1,695,190)	(\$2,461,420)	(\$7,069,558)

These welfare effects are likely overstated because we assume that no alternative markets or uses exist. Loss of market access to the other citrus-producing States will motivate packinghouses to find other markets for Florida fresh citrus, whether in non-citrus-producing States, within Florida, or abroad. Alternatively, the fruit may be processed.

In the case of tangerines and tangelos, the estimated net welfare losses are notably higher than for grapefruit and the orange varieties. As discussed earlier, tangerines and tangelos account for the largest percentage share of Florida fresh shipments to other citrus-producing States, particularly California. California provides a niche market for Florida fresh tangerines, especially honey tangerines, as reflected by the premium price received. As with grapefruit and oranges, the likely scenario for fresh tangerine and tangelo

shipments will be diversion to other markets. However, diversion of tangerines and tangelos to the processing sector is unlikely to be as economically feasible as the grapefruit and orange processing sectors. Historically, tangerines and tangelos not suitable for the fresh market are greatly discounted, and producers can only, at best, recoup some of their costs by diversion to the processing sector.

In the longer term, the Florida citrus industry will face structural adjustments due to the prevalence of citrus canker. Production costs will increase as citrus canker control practices are incorporated into the cost of planting new groves. Supply is likely to decrease as the industry reduces acreage allocated to the production of fresh citrus, and resources are reallocated to other uses.

The loss of market access to other citrus-producing States by the Florida

fresh citrus industry will likely result in relatively small welfare losses to Florida growers and packinghouses.

Federal spending on citrus canker through FY 2006 is estimated to be about \$941 million; \$536 million for compensation and \$405 million for eradication. Clearly, benefits of preventing the spread of citrus canker to other citrus producing states outweigh expected costs associated with Florida’s loss of market access to other citrus producing states.

**Expected Effects for the Other Citrus-Producing States**

Commercial citrus-producing States other than Florida (Arizona, California, Louisiana, and Texas) are also likely to be affected by the interim rule. However, unlike for Florida, there is not sufficient data to model the expected effects of this rule for these States. Although State-level production data

exists, consumption, foreign and domestic imports, and foreign and domestic export data are not readily available. We therefore qualitatively discuss possible effects.

In the short term, producers in these States are likely to benefit from higher prices resulting from the State-wide quarantine of Florida fresh citrus. A certain amount of production within each of these States will be diverted from interstate and export channels to fill some of the void left in the absence of the Florida fresh citrus. The California fresh tangerine sector will likely inherit most of the lucrative fresh tangerine market within that State that has been supplied by Florida.

Imports are also expected to supply a portion of the excess demand in these citrus-producing States. It is possible that additional oranges will be sourced from South Africa, Australia, and Mexico, tangerines from Mexico, and grapefruit from the Bahamas and Mexico based on historical import data.

Producers in the other citrus-producing States may expand production slightly in the medium term in response to higher prices. Given the biological process associated with citrus production, production expansion would not be possible in the short term. The degree to which prices are affected by the quarantine of Florida will govern the response by other producers. However, given the expected effects in Florida as outlined above, we expect at most small expansions in production in Arizona, California, Louisiana, and Texas.

Long-term effects of the interim rule for the other citrus-producing States are uncertain. If acreage devoted to citrus production in Florida contracts due to continued spread of citrus canker, farmers in the other citrus-producing States may expand their operations. However, numerous other factors will influence these decisions, including competing land use demands and imports.

The objective of the interim rule is to contain the spread of citrus canker within Florida and not allow it to spread to other citrus-producing States. As stated previously, while citrus canker affects the outward appearance of the fruit so that it may not be sold on the fresh market, the fruit may be used in the processing sector to make juice. In the case of oranges, Florida differs significantly from the other citrus-producing States in that approximately 95 percent of orange production is targeted for the processing sector. In other citrus-producing States, the majority of citrus produced enters the fresh market.

In California, for example, approximately 78 percent of citrus production was utilized in the fresh market during the 2004–05 season. If citrus canker were introduced into any of the other citrus-producing States, the economic effects could be much worse than in Florida, at least in the case of oranges, because of the larger share of production that is sold as fresh fruit. Citrus destined for the fresh market is a higher value product that is produced at a greater expense. Producers would likely not recoup all of the costs associated with growing the oranges if they had to be diverted to the processing sector.

### Alternatives

The State-wide quarantine of Florida was one of three options considered for this interim rule. The Agency also considered maintaining the current quarantine zones. However, due to the pervasive spread of the disease, Agency officials determined that the quarantine and eradication procedures were ineffective at containing the spread of the disease and feared that the disease could spread to other citrus producing areas without additional action. APHIS thus determined that this option was not viable.

APHIS also considered allowing interstate movement of Florida citrus fruit to any domestic location, including citrus-producing States, if inspection of approved groves for signs of citrus canker 60 days prior to shipping found no symptoms of the disease. Such requirements would be similar to those imposed by the European Union for imports of Florida citrus fruit. However, pending a final determination by the Agency that citrus canker is unlikely to be introduced by asymptomatic citrus fruit,<sup>1</sup> Agency officials do not have sufficient information on which to base such a change.

The State-wide quarantine of Florida, which prohibits the shipment of Florida citrus to other citrus-producing States, would allow Florida to ship to all other States within the United States under certain conditions while preventing the spread of citrus canker to other citrus-producing states. APHIS determined this option to be the most effective and reasonable alternative.

<sup>1</sup> APHIS has considered the available scientific and other evidence associated with the question of asymptomatic citrus fruit as a pathway for the introduction of citrus canker. A risk evaluation has been made available for public comment and submitted for peer review but has not been finalized.

### Effects on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. Section 603 of the Act requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the expected impact of proposed rules on small entities. Sections 603(b) and 603(c) of the Act specify the content of an IRFA. In this section, we address these IRFA requirements for this interim rule.

The interim rule may affect producers of fresh citrus in Florida and other citrus-producing States, as well as firms responsible for packing and shipping these commodities to domestic and foreign markets. Affected Florida citrus producers are expected to be small businesses based on 2002 Census of Agriculture data and Small Business Administration (SBA) guidelines for entities classified within the farm categories Orange Groves (North American Industry Classification System [NAICS] 111310) and Citrus (except Orange) Groves (NAICS 111320). SBA classifies producers in these categories with total annual sales of not more than \$750,000 as small entities. APHIS does not have information on the size distribution of the relevant producers, but according to 2002 Census data, there were a total of 9,335 fruit and tree nut farms in Florida in 2002. Of this number, approximately 95 percent had annual sales in 2002 of less than \$500,000, which is well below the SBA's small entity threshold of \$750,000. It is reasonable to assume that most of the 7,072 orange, 1,861 grapefruit, 485 tangelo, 879 tangerine, and 345 temple farms in Florida that will be affected by this rule qualify as small entities.

In the case of packinghouses, establishments engaged in Postharvest Crop Activities (NAICS 115114) with not more than \$6.5 million in total annual sales are considered small businesses by SBA standards. The County Business Patterns report for Florida published by the U.S. Census Bureau states the number of firms by employment size. The number of employees and annual payroll for firms included in NAICS 115114 are reported. However, this publication does not report the value of total annual sales for firms in this category, nor is that information published in the Census of Agriculture or the Economic Census. The Florida Citrus Mutual reports that there are approximately 105 packinghouses in Florida, but that

classification of these establishments by sales volume is not available. Thus, we do not know the number of packinghouses in Florida that would be classified as small entities based on the SBA standard and we welcome information that the public may provide.

Small entities in Florida, particularly farmers, will likely face slightly lower prices for their citrus as a result of the implementation of the interim rule, as indicated in the economic analysis. However, these price declines (one cent per kilogram for grapefruit, oranges and tangerines; five cents per kilogram for tangerines and tangelos) are likely overstated since the analysis does not take into account opportunities for diversion of the fresh citrus shipments to alternative markets or for processing.

Small entities in other citrus-producing States may be affected by the interim rule. However, APHIS does not believe these impacts are likely to be substantial. There may be minimal price increases for citrus farmers in the other citrus-producing States, as they at least partially replace the supply from Florida. Small entities in these States may benefit, if only marginally, from the changes proposed in the interim rule. APHIS welcomes public comment on these potential benefits to citrus producers in Arizona, California, Louisiana, and Texas.

The State-wide quarantine of Florida was one of three options considered by APHIS for the interim rule. The Agency considered maintaining the current quarantine zones. However, due to the pervasive spread of the disease, Agency officials determined that the quarantine and eradication procedures were ineffective at containing the spread of the disease and feared that the disease could continue to spread to other citrus-producing areas without additional action. APHIS thus determined that this option was not viable. The Agency also considered inspection of approved groves for signs of citrus canker 60 days prior to shipping, similar to the current export requirements. Officials deemed the risk of citrus canker spreading to other citrus-producing States as being too high under this option, and it was abandoned. The State-wide quarantine of Florida, which prohibits the shipment of Florida citrus to other citrus-producing States, would allow Florida to ship to all other States within the United States while minimizing the probability of spreading citrus canker to other citrus-producing States. APHIS determined this option to be the most effective and reasonable alternative.

#### 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 rule has been reviewed under Executive Order 12988, 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.

#### Paperwork Reduction Act

This rule contains no new 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, we are amending 7 CFR part 301 as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

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

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note); section 301.75–17 issued under Sec. 211, Title II, Public Law 108–7.

■ 2. In § 301.75–4, paragraph (a) is revised and new paragraphs (d)(3) through (d)(6) are added to read as follows:

#### § 301.75–4 Quarantined areas.

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

\* \* \* \* \*

(d) \* \* \*

(3) *Inspections.* (i) In the quarantined area, every regulated plant and regulated tree, except indoor houseplants and regulated plants and regulated trees at nurseries, is inspected for citrus canker at least once a year, between May 1 through December 31, by an inspector.

(ii) In the quarantined area, every regulated plant and regulated tree at every nursery containing regulated plants or regulated trees is inspected for citrus canker by an inspector at intervals of no more than 45 days.

(4) *Treatment of personnel, vehicles, and equipment.* In the quarantined area, all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated in accordance with § 301.75–11(d) of this subpart upon leaving the grove or premises. All personnel who enter the grove or premises to provide these services must be treated in accordance with § 301.75–11(c) of this subpart upon leaving the grove or premises.

(5) *Destruction of infected plants and trees.* No more than 7 days after a State or Federal laboratory confirms that a regulated plant or regulated tree is infected, the State must provide written notice to the owner of the infected plant or infected tree that the infected plant or infected tree must be destroyed. The owner must have the infected plant or infected tree destroyed within 45 days after receiving the written notice.

(6) *Interstate movement of regulated fruit.* When less than an entire State is designated as a quarantined area, regulated fruit produced in a quarantined area may be moved interstate in accordance with § 301.75–7(a) provided the following additional conditions are met:

(i) During the 2 years before the interstate movement, no plants or plant parts infected with citrus canker were found in the grove producing the regulated fruit and any exposed plants in the grove at high risk for developing citrus canker have been destroyed. Identification of exposed plants at high risk for developing citrus canker will be based on an evaluation of all of the circumstances related to their exposure, including, but not limited to, the following:

(A) The stage of maturity of the exposed plant at the time of exposure and the size and degree of infestation to which the plants were exposed,

(B) The proximity of exposed plants to infected plants or contaminated articles at the time of exposure, and

(C) The length of time the plants were exposed.

(ii) [Reserved]

■ 3. Section 301.75–6 is revised to read as follows:

**§ 301.75-6 Interstate movement of regulated articles from a quarantined area, general requirements.**

Regulated articles may be moved interstate from a quarantined area into any area of the United States except commercial citrus-producing areas if all of the following conditions are met:

(a) *Inspections.* (1) In the quarantined area, every regulated plant and regulated tree at every nursery containing regulated plants or regulated trees is inspected for citrus canker by an inspector at intervals of no more than 45 days.

(2) *Treatment of personnel, vehicles, and equipment.* In the quarantined area, all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees must be treated in accordance with § 301.75-11(d) upon leaving the grove. All personnel who enter the grove or premises to provide these services must be treated in accordance with § 301.75-11(c) upon leaving the grove.

(b) Regulated plants and trees produced in a nursery located in a quarantined area that are not eligible for movement under paragraph (a) of this section may be moved interstate only for immediate export. The regulated plants and trees must be accompanied by a limited permit issued in accordance with § 301.75-12 and must be moved in a container sealed by APHIS directly to the port of export in accordance with the conditions of the limited permit.

■ 4. Section 301.75-7 is amended as follows:

- a. By removing paragraph (a)(2).
- b. By redesignating paragraphs (a)(3) through (a)(6) as paragraphs (a)(2) through (a)(5), respectively.
- c. By revising newly redesignated paragraph (a)(2) to read as set forth below.
- d. By revising newly redesignated paragraph (a)(5) to read as set forth below.
- e. By redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as set forth below.

**§ 301.75-7 Interstate movement of regulated fruit from a quarantined area.**

(a) \* \* \*  
(2) No more than 30 days before the beginning of harvest, every tree was inspected by an inspector and the grove was found free of citrus canker. Further, in groves producing limes, every tree was inspected by an inspector and the grove was found free of citrus canker every 120 days or less thereafter for as long as harvest continued.

\* \* \* \* \*

(5) The regulated fruit is accompanied by a limited permit issued in accordance with § 301.75-12. The boxes or other containers in which the fruit is packaged must be clearly marked with the statement "Not for distribution in AZ, CA, HI, LA, TX, and American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands of the United States."

\* \* \* \* \*

(b) Regulated fruit produced in a quarantined area that is not eligible for movement under paragraph (a) of this section may be moved interstate only for immediate export. The regulated fruit must be accompanied by a limited permit issued in accordance with § 301.75-12 and must be moved in a container sealed by APHIS directly to the port of export in accordance with the conditions of the limited permit.

\* \* \* \* \*

Done in Washington, DC, this 26th day of July 2006.

**Charles D. Lambert,**

*Acting Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. E6-12314 Filed 7-31-06; 8:45 am]

**BILLING CODE 3410-34-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2006-25444; Directorate Identifier 2006-SW-18-AD; Amendment 39-14700; AD 2006-15-19]**

**RIN 2120-AA64**

**Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the Sikorsky Aircraft Corporation (Sikorsky) Model S-92A helicopters. This action requires, before further flight, replacing a certain main gearbox (MGB) upper main housing assembly (housing assembly) that has 2700 or more hours time-in-service (TIS) with an airworthy part. This action also requires, before further flight, revising the Airworthiness Limitations section (ALS) of the maintenance manual by establishing a new retirement life for the MGB housing assembly of 2700 hours TIS. This amendment is prompted by testing of

the MGB housing assembly that resulted in premature fatigue failure due to a manufacturing process creating an oxide skin defect in the housing. The actions specified in this AD are intended to prevent fatigue failure of the MGB housing, loss of MGB lube oil, loss of main and tail rotor drive, and subsequent loss of control of the helicopter.

**DATES:** Effective August 16, 2006.

Comments for inclusion in the Rules Docket must be received on or before October 2, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this AD:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically;
- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically;
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590;
- Fax: (202) 493-2251; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Examining the Docket**

You may examine the docket that contains the AD, any comments, and other information on the Internet at <http://dms.dot.gov>, or in person at the Docket Management System (DMS) Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

**FOR FURTHER INFORMATION CONTACT:**

Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7156, fax (781) 238-7170.

**SUPPLEMENTARY INFORMATION:** This amendment adopts a new AD for the Sikorsky Model S-92A helicopters. This action requires, before further flight, replacing a certain MGB housing assembly that has 2700 or more hours TIS with an airworthy MGB housing assembly with less than 2700 hours TIS. Also, this action requires, before further flight, revising the ALS of the