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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2007–0032]

RIN 0579–AC38

#### Citrus Canker; Interstate Movement of Regulated Nursery Stock From Quarantined Areas

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

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

**SUMMARY:** We are amending the citrus canker quarantine regulations to explicitly prohibit, with limited exceptions, the interstate movement of regulated nursery stock from a quarantined area. The interstate movement of regulated nursery stock from an area quarantined for citrus canker poses a high risk of spreading citrus canker outside the quarantined area. We are including two exceptions to the prohibition. We are allowing calamondin and kumquat plants, two types of citrus plants that are highly resistant to citrus canker, to move interstate from a quarantined area under a protocol designed to ensure that they are free of citrus canker prior to movement. We will also continue to allow the interstate movement of regulated nursery stock for immediate export, under certain conditions. This action is necessary to clarify our regulations and to address the risk associated with the interstate movement of regulated nursery stock from areas quarantined for citrus canker.

**DATES:** This interim rule is effective March 16, 2007. We will consider all comments that we receive on or before May 21, 2007.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2007–0032 to submit or view public comments and to view supporting and related materials available electronically. Information on using [Regulations.gov](http://www.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–2007–0032, 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–2007–0032.

*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, Emergency Domestic Programs, Plant Protection and Quarantine, 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 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 and regulated seed may be moved from quarantined areas.

On August 1, 2006, we published an interim rule in the **Federal Register** (71 FR 43345–43352, Docket No. APHIS–2006–0114) that designated the entire State of Florida as a quarantined area. The interim rule also amended the regulations governing the movement of regulated articles from a quarantined area to reflect the fact that the U.S. Department of Agriculture (USDA) had announced on January 10, 2006, that the eradication program that USDA and the State of Florida had been pursuing was no longer a scientifically feasible option to address citrus canker. Eradication had become an infeasible option in Florida due to the rapid spread of citrus canker across that State that occurred during the hurricane seasons of 2004 and 2005.

The amendments we made to our regulations in the August 2006 interim rule were consistent with the recommendations of the Citrus Health Response Program, whose goal is to improve the ability of the commercial citrus industry to produce, harvest, process, and ship healthy fruit in the presence of citrus canker. This program provides general guidance to regulatory officials and all sectors of the citrus industry on ways to safeguard against citrus canker and other citrus pests of concern.

#### *Regulations That Have Governed the Interstate Movement of Regulated Nursery Stock*

The Animal and Plant Health Inspection Service (APHIS) has historically not allowed the interstate movement of regulated nursery stock from areas quarantined for citrus canker, because that movement is considered to be the highest risk pathway for the

spread of citrus canker. In virtually every case worldwide where citrus canker has been introduced into a new area, it has been through the movement of infected citrus nursery stock. If a citrus canker outbreak were to occur in another commercial citrus-producing area in the United States, the cost of eradicating the outbreak would be extremely high for both that State and the USDA, and citrus producers in that area could experience business interruptions and consequently lose substantial revenues.

In § 301.75-2 of the regulations, paragraph (a) prohibits the interstate movement of regulated articles except in accordance with the regulations. In addition, the regulations in § 301.75-6 have set out threshold conditions that must be met for the movement of regulated articles under §§ 301.75-7 and 301.75-8 from areas quarantined for citrus canker. These include requirements for surveying every regulated plant and regulated tree in every nursery in the quarantined area containing regulated plants and regulated trees at intervals of no more than 45 days and for treating personnel, vehicles, and equipment.

The requirements in § 301.75-6 were intended to be threshold conditions for the interstate movement of regulated fruit, whose movement is subject to the additional conditions in § 301.75-7, and regulated seed, whose movement is subject to the additional conditions in § 301.75-8, from a quarantined area. The requirements of § 301.75-6, standing alone, did not serve to address the risk associated with the movement of regulated articles such as nursery stock from the quarantined area, however, since they did not include any provisions to ensure that the specific articles to be moved were free of citrus canker. In fact, these requirements were not intended to serve as necessary and sufficient conditions under which the movement of regulated articles such as nursery stock would be allowed.

We have considered the interstate movement of nursery stock to be prohibited under § 301.75-2(a) because we have not had regulations in place that specifically set forth the conditions under which the interstate movement of nursery stock from a quarantined area would be allowed. However, the regulations have also not contained any provision specifically prohibiting the interstate movement of regulated nursery stock from the quarantined area. Given that, the general requirements in § 301.75-6 could also have been read as allowing the interstate movement of any regulated article not specifically named elsewhere in the regulations, including

nursery stock, subject to the conditions in that section. As stated earlier, APHIS' intent has always been to prohibit the movement of all nursery stock except calamondin and kumquat plants from the quarantined area. (Our reasons for allowing the interstate movement of those plants are discussed later in this document under the heading "Protocol to Allow Interstate Movement of Calamondin and Kumquat Plants.")

Prior to the decision by the USDA that the eradication program was no longer a scientifically feasible option to address citrus canker in Florida, the State of Florida had placed restrictions on the intrastate movement of regulated nursery stock from the quarantined area. Under its authority, the State of Florida placed "stop-sale" orders on all nursery stock in the quarantined area, thus preventing its movement, and also destroyed any plants or trees that were infected with citrus canker as well as any regulated plants or trees that were located within 1,900 feet of an infected plant or tree. These intrastate movement restrictions effectively prohibited the movement of regulated nursery stock from the quarantined area. However, after the USDA decision and the subsequent designation of the entire State of Florida as a quarantined area, the State of Florida stopped routinely destroying infected and exposed trees and plants and issuing stop-sale orders for uninfected nurseries in the quarantined area, since the goal of the citrus canker program was no longer to eradicate citrus canker in Florida but to manage it.

Therefore, we need to amend the regulations to explicitly prohibit, with limited exceptions, the interstate movement of regulated nursery stock, to codify our long-standing policy in that regard and to remove any ambiguity that may have arisen from the provisions in § 301.75-6.

Accordingly, this interim rule prohibits the interstate movement of regulated nursery stock from a quarantined area. (This interim rule adds a definition of *nursery stock* to the definitions in § 301.75-1. The definition reads: "Living plants and plant parts intended to be planted, to remain planted, or to be replanted." We are also amending the definition of *regulated fruit*, *regulated plant*, *regulated seed*, *regulated tree* so that it includes nursery stock. Thus, nursery stock derived from any citrus plant is considered to be regulated nursery stock.) We are including two exceptions to the prohibition: Calamondin and kumquat plants are allowed to move interstate from a quarantined area under a protocol designed to ensure that they

are free of citrus canker prior to movement, and regulated nursery stock that is otherwise ineligible for interstate movement may be moved for immediate export. To codify these changes, we are amending § 301.75-6 to address the interstate movement of regulated nursery stock. The changes we are making to the regulations are discussed directly below.

#### *Amendments to § 301.75-6 To Address Regulated Nursery Stock*

As discussed earlier, prior to the effective date of this interim rule, § 301.75-6 set out threshold conditions that had to be met for the movement of regulated articles from the quarantined area under §§ 301.75-7 and 301.75-8. We are revising the title of the section to read "Interstate movement of regulated nursery stock from a quarantined area" to reflect its new focus.

We have moved the requirements in paragraph (b) to a new paragraph (c) and amended the paragraph to refer generally to nursery stock rather than only to plants and trees. This paragraph, which was originally added to the regulations in the August 2006 interim rule, allows regulated nursery stock produced in a nursery located in a quarantined area that is not otherwise eligible for movement to be moved interstate for immediate export. To be moved under this paragraph, the regulated nursery stock 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.

We are replacing the remainder of § 301.75-6 with new regulations.

Prior to our August 2006 interim rule, paragraph (a) of § 301.75-6 required inspections at 45-day intervals of all regulated plants and regulated trees in nurseries within the quarantined area and annual inspections of all other regulated plants and regulated trees (except houseplants) within the quarantined area. In the "Background" section of the August 2006 interim rule, we stated that the level of inspection that had been required in § 301.75-6 "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)." That paragraph contains provisions under which an area less than an entire State may be designated as a quarantined area; our intention was to move all provisions in the regulations that were

related to eradication to that paragraph, as we would normally pursue eradication only in an area less than an entire State. However, while we did add those requirements to § 301.75-4(d), only the provision regarding annual inspections was removed from § 301.75-6 in the August 2006 interim rule.

Therefore, we are removing the provision regarding inspection of nurseries within the quarantined area from § 301.75-6 in this interim rule.

Paragraph (a)(2) of § 301.75-6 has required that, 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 be treated in accordance with § 301.75-11(d) upon leaving the grove. Paragraph (a)(2) has also required that 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. These requirements are designed to protect groves from the artificial spread of citrus canker and are more properly located in § 301.75-7, i.e., in the regulations governing the interstate movement of fruit from the quarantined area, which require that regulated fruit come from a grove free of citrus canker in order to be eligible for interstate movement. Accordingly, we are moving the requirements that have been in § 301.75-6(a)(2) into paragraph (a) of § 301.75-7.

In this interim rule, we are revising paragraph (a) of § 301.75-6 to state that regulated nursery stock may not be moved interstate from a quarantined area except for immediate export in accordance with newly redesignated paragraph (c) of § 301.75-6, with the proviso that calamondin and kumquat plants may be moved interstate from a quarantined area in accordance with a new paragraph (b). The provisions of this paragraph (b), along with our reasons for including them in the regulations, are discussed in detail directly below.

#### *Protocol to Allow Interstate Movement of Calamondin and Kumquat Plants*

In a final rule published in the **Federal Register** on March 24, 1989 (54 FR 12175-12183), we made several changes to the citrus canker regulations, including adding provisions to allow the interstate movement of own-root-only calamondin and kumquat plants under limited permit to all areas of the United States except commercial citrus-producing areas. This final rule was published subsequent to a proposed rule we published in the **Federal Register** on

October 21, 1988 (53 FR 41538-41549, Docket No. 88-105). We received 32 comments on that proposal, but none addressed the provisions for the interstate movement of calamondin and kumquat plants. Therefore, we adopted the proposed provisions in our final rule, without change. The provisions adopted in that final rule are similar to the provisions under which we are allowing the interstate movement of calamondin and kumquat plants in this interim rule.

At the time the March 1989 final rule was published, the entire State of Florida was quarantined for citrus canker. However, in a final rule published in the **Federal Register** on September 11, 1990 (55 FR 37441-37453, Docket No. 90-114), we substantially revised the regulations to reflect the fact that the disease that had been called the Florida nursery strain of citrus canker was in fact a less serious disease called citrus bacterial spot. Therefore, in the September 1990 final rule, the area of Florida quarantined for citrus canker was reduced to a much smaller area where the Asiatic strain of citrus canker was present. The September 1990 final rule also removed the provisions allowing the interstate movement of calamondin and kumquat plants from quarantined areas. We did not provide a reason for removing those provisions in either the final rule or the proposed rule that preceded it. Because the reduction in the quarantined area meant that most nurseries in Florida were now eligible to move regulated nursery stock of any kind interstate without restrictions, it can be presumed that the change did not have much negative effect on the nursery stock industry in Florida.

The August 2006 interim rule again quarantined the entire State of Florida for citrus canker, thus prohibiting the interstate movement of regulated nursery stock from all nurseries in the State. To provide any possible relief from these restrictions, we reexamined the movement of calamondin and kumquat plants and determined the safeguards that the protocol required for the interstate movement of these highly resistant plants would mitigate the risk of spreading citrus canker from a quarantined area through the interstate movement of these plants. We subsequently began allowing such movement through administrative action pending the development of regulations. This interim rule codifies that protocol.

The biological basis for allowing the interstate movement of calamondin and kumquat plants remains the same: These two types of citrus are highly

resistant to infection by the bacterium that causes citrus canker.<sup>1</sup> Additionally, we are requiring that these plants be produced in conditions that will further minimize the risk that they could be infected with citrus canker. Under paragraph (b) of § 301.75-6, calamondin and kumquat plants may only be moved interstate if all of the following conditions are met:

- The plants are own-root-only and have not been grafted or budded;
- The plants are started, are grown, and have been maintained solely at the nursery from which they will be moved interstate.
- If the plants are not grown from seed, then the cuttings used for propagation of the plants are taken from plants located on the same nursery premises or from another nursery that is eligible to produce calamondin and kumquat plants for interstate movement under the requirements of § 301.75-6(b). Cuttings may not be obtained from properties where citrus canker is present.
- All citrus plants at the nursery premises have undergone State inspection and have been found to be free of citrus canker no less than three times. The inspections must be at intervals of 30 to 45 days, with the most recent inspection being within 30 days of the date on which the plants are removed and packed for shipment.
- All vehicles, equipment, and other articles used in providing inspection, maintenance, or related services in the nursery must be treated in accordance with § 301.75-11(d) before entering the nursery to prevent the introduction of citrus canker. All personnel who enter the nursery to provide these services must be treated in accordance with § 301.75-11(c) before entering the nursery to prevent the introduction of citrus canker.
- If citrus canker is found in the nursery, all regulated plants and plant material must be removed from the nursery and all areas of the nursery's facilities where plants are grown and all associated equipment and tools used at the nursery must be treated in accordance with § 301.75-11(d) in order for the nursery to be eligible to produce calamondin and kumquat plants to be moved interstate under § 301.75-6(b). Fifteen days after these actions are completed, the nursery may receive new calamondin and kumquat seed or cuttings from a nursery that is eligible

<sup>1</sup> See Gottwald, T.R., Graham, J.H., and Schubert, T.S. 2002. Citrus canker: The pathogen and its impact. *Plant Health Progress* doi:10.1094/PHP-2002-0812-01-RV. Available at <http://www.plantmanagementnetwork.org/pub/php/review/citruscanker/>.

to produce calamondin and kumquat plants for interstate movement under § 301.75–6(b). The bacterium that causes citrus canker is extremely unlikely to survive if left for 15 days without host material to infect.

- The plants, except for plants that are hermetically sealed in plastic bags before leaving the nursery, are completely enclosed in containers or vehicle compartments during movement through the quarantined area. This requirement will prevent infection during transportation through the quarantined area.

Paragraph (b) also requires that the plants be moved under limited permit to ensure that they are only moved to areas other than commercial citrus-producing areas. This requirement is contained in paragraph (b)(8), which requires that the calamondin or kumquat plants or trees be accompanied by a limited permit issued in accordance with § 301.75–12. The statement “Limited permit: 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” must be displayed on a plastic or metal tag attached to each plant, or on the box or container if the plant is sealed in plastic. In addition, this statement must be displayed on the outside of any shipping containers used to transport these plants, and the limited permit must be attached to the bill of lading or other shipping document that accompanies the plants.

Section 301.75–12 contains general requirements for issuance and attachment of limited permits under the regulations. Paragraph (b) of that section requires that the limited permit accompanying a regulated article be attached to the outside of the article, the outside of the container, or the waybill. As described in the previous paragraph, the protocol for the interstate movement of calamondin and kumquat trees imposes additional, specific requirements related to the limited permit that are designed to provide as much assurance as possible that the nursery stock will not be moved into a commercial citrus-producing area. Accordingly, we are amending § 301.75–12(b) to make it clear that the specific requirements for attaching limited permits to calamondin and kumquat plants supersede the general provisions of § 301.75–12(b).

We believe these conditions will ensure the safe interstate movement of calamondin and kumquat plants from the quarantined area, as they did prior to the September 1990 final rule.

Finally, we are also revising paragraph (a) of § 301.75–2 to state that

regulated articles may not be moved interstate from a quarantined area except in accordance with a protocol in §§ 301.75–6, 301.75–7, or 301.75–8; in accordance with § 301.75–4 if less than an entire State is designated as a quarantined area; or in accordance with the regulations in § 301.75–9 for scientific or experimental purposes only. We are making this change to clarify that the regulations prohibit the interstate movement from a quarantined area of all regulated articles other than those specifically addressed elsewhere in the regulations. If we determine that other regulated articles can be moved interstate from the quarantined area without spreading citrus canker, we will update the regulations to set out conditions for their movement.

#### Miscellaneous Change

We are also amending the definition of *nursery*. This definition has read: “Any premises, including greenhouses but excluding any grove, at which plants are grown or maintained for propagation or replanting.” We are amending this definition to replace the reference to plants with a reference to nursery stock, as defined in this interim rule. We are also removing the references to propagation and replanting. Any premises at which nursery stock is grown or maintained could be a source of nursery stock that is moved interstate, regardless of the intended use of that nursery stock, and should be required to fulfill all applicable provisions of the regulations.

#### Emergency Action

This rulemaking is necessary on an emergency basis to address the ambiguities in § 301.75–6 and the risk associated with the interstate movement of citrus nursery stock and other regulated articles from areas quarantined for citrus canker. 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 rule 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 not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This interim rule codifies existing policies and clarifies the regulations to prohibit the interstate movement of regulated nursery stock from the quarantined area. Because the interstate movement of nursery stock from an area quarantined for citrus canker poses a high risk of spreading citrus canker outside the quarantined area, APHIS has prohibited this movement prior to the effective date of this interim rule. This change to the regulations will not have any effect on any entities, as it codifies existing procedures. In addition, the interim rule retains a provision of the regulations that allows the interstate movement of regulated nursery stock for immediate export, under certain conditions.

The interim rule also provides for the interstate movement of calamondin and kumquat plants, two types of citrus plants that are highly resistant to citrus canker, if they are produced and moved under a protocol designed to ensure that they are free from citrus canker prior to movement. Prior to the publication of the August 2006 interim rule, which quarantined the entire State of Florida for citrus canker, the movement of all regulated nursery stock, including calamondin and kumquat plants, from the quarantined area was prohibited by Florida’s statutes and regulations. However, since the publication of the August 2006 interim rule, APHIS has recognized the lower risk associated with the interstate movement of calamondin and kumquat plants by allowing them to move under the protocol designed to ensure that they are free of citrus canker, similar to how APHIS allowed that movement before the September 1990 final rule discussed earlier in this document reduced the area quarantined for citrus canker to an area less than the entire State of Florida. We have allowed the movement of calamondin and kumquat plants, subject to the protocol, through administrative action pending the development of regulations. Adding these provisions to the regulations in this interim rule simply codifies existing procedures.

Because the changes to the regulations made by this interim rule will not have any effect on current quarantine operations, we expect that they will not have a significant economic impact on any entities, whether large or small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 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

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 this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. APHIS-2007-0032, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. APHIS-2007-0032 and send your comments within 60 days of publication of this rule.

This interim rule amends the citrus canker regulations to prohibit the interstate movement of nursery stock, except calamondin and kumquat plants produced in accordance with a production protocol and moved interstate to areas other than commercial citrus production areas. The imposition of the movement requirement will require regulated parties to secure limited permits for the interstate movement of calamondin and kumquat plants.

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

(1) Evaluate whether the 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 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 0.0015 hours per response.

*Respondents:* Citrus growers.

*Estimated annual number of respondents:* 8.

*Estimated annual number of responses per respondent:* 10,025.

*Estimated annual number of responses:* 80,200.

*Estimated total annual burden on respondents:* 120 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.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### 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 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).

■ 2. Section 301.75-1 is amended by removing the definition of *regulated fruit*, *regulated plant*, *regulated seed*, *regulated tree*, revising the definition of *nursery*, and adding, in alphabetical order, new definitions of *nursery stock* and *regulated fruit*, *regulated nursery stock*, *regulated plant*, *regulated seed*, *regulated tree* to read as follows:

#### § 301.75-1 Definitions.

\* \* \* \* \*

*Nursery.* Any premises, including greenhouses but excluding any grove, at which nursery stock is grown or maintained.

*Nursery stock.* Living plants and plant parts intended to be planted, to remain planted, or to be replanted.

\* \* \* \* \*

*Regulated fruit, regulated nursery stock, regulated plant, regulated seed, regulated tree.* Any fruit, nursery stock, plant, seed, or tree defined as a regulated article.

\* \* \* \* \*

■ 3. In § 301.75-2, paragraph (a) is revised to read as follows:

#### § 301.75-2 General prohibitions.

(a) Regulated articles may not be moved interstate from a quarantined area except in accordance with a protocol in §§ 301.75-6, 301.75-7, or 301.75-8, or in accordance with § 301.75-4 if less than an entire State is designated as a quarantined area. Regulated articles may be moved in accordance with the regulations in § 301.75-9 for scientific or experimental purposes only.

\* \* \* \* \*

■ 4. Section 301.75-6 is revised to read as follows:

#### § 301.75-6 Interstate movement of regulated nursery stock from a quarantined area.

(a) Regulated nursery stock may not be moved interstate from a quarantined area except for immediate export in accordance with paragraph (c) of this section; *Provided*, that calamondin and

kumquat plants may be moved interstate from a quarantined area in accordance with paragraph (b) of this section.

(b) Calamondin (*Citrus mitis*) and kumquat (*Fortunella* spp.) plants, with or without fruit attached, 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:

(1) The plants are own-root-only and have not been grafted or budded;

(2) The plants are started, are grown, and have been maintained solely at the nursery from which they will be moved interstate.

(3) If the plants are not grown from seed, then the cuttings used for propagation of the plants are taken from plants located on the same nursery premises or from another nursery that is eligible to produce calamondin and kumquat plants for interstate movement under the requirements of this paragraph (b). Cuttings may not be obtained from properties where citrus canker is present.

(4) All citrus plants at the nursery premises have undergone State inspection and have been found to be free of citrus canker no less than three times. The inspections must be at intervals of 30 to 45 days, with the most recent inspection being within 30 days of the date on which the plants are removed and packed for shipment.

(5) All vehicles, equipment, and other articles used in providing inspection, maintenance, or related services in the nursery must be treated in accordance with § 301.75-11(d) before entering the nursery to prevent the introduction of citrus canker. All personnel who enter the nursery to provide these services must be treated in accordance with § 301.75-11(c) before entering the nursery to prevent the introduction of citrus canker.

(6) If citrus canker is found in the nursery, all regulated plants and plant material must be removed from the nursery and all areas of the nursery's facilities where plants are grown and all associated equipment and tools used at the nursery must be treated in accordance with § 301.75-11(d) in order for the nursery to be eligible to produce calamondin and kumquat plants to be moved interstate under this paragraph (b). Fifteen days after these actions are completed, the nursery may receive new calamondin and kumquat seed or cuttings from a nursery that is eligible to produce calamondin and kumquat plants for interstate movement under this paragraph (b).

(7) The plants, except for plants that are hermetically sealed in plastic bags before leaving the nursery, are

completely enclosed in containers or vehicle compartments during movement through the quarantined area.

(8) The calamondin or kumquat plants or trees are accompanied by a limited permit issued in accordance with § 301.75-12. The statement "Limited permit: 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" must be displayed on a plastic or metal tag attached to each plant, or on the box or container if the plant is sealed in plastic. In addition, this statement must be displayed on the outside of any shipping containers used to transport these plants, and the limited permit must be attached to the bill of lading or other shipping document that accompanies the plants.

(c) Regulated nursery stock produced in a nursery located in a quarantined area that is not eligible for movement under paragraph (b) of this section may be moved interstate only for immediate export. The regulated nursery stock 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.

■ 5. Section 301.75-7 is amended by redesignating paragraph (a)(5) as paragraph (a)(6) and by adding a new paragraph (a)(5) to read as follows:

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

(a) \* \* \*

(5) All vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in the grove 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.

\* \* \* \* \*

**§ 301.75-12 [Amended]**

■ 6. In § 301.75-12, the introductory text of paragraph (b)(1) is amended by removing the word "Certificates" and adding the words "Except as provided in § 301.75-6(b)(8) for calamondin and kumquat plants, certificates" in its place.

Done in Washington, DC, this 16th day of March 2007.

**Nick Gutierrez,**

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

[FR Doc. E7-5229 Filed 3-21-07; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**9 CFR Part 78**

[Docket No. APHIS-2006-0138]

**Brucellosis in Cattle; State and Area Classifications; Wyoming**

**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 brucellosis regulations concerning the interstate movement of cattle by changing the classification of Wyoming from Class A to Class Free. We have determined that Wyoming meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Wyoming.

**DATES:** Effective on March 22, 2007, we are adopting as a final rule the interim rule published at 71 FR 54402-54404 on September 15, 2006.

**FOR FURTHER INFORMATION CONTACT:** Dr. Debbi A. Donch, Senior Staff Veterinarian, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5952.

**SUPPLEMENTARY INFORMATION:**

**Background**

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

In an interim rule<sup>1</sup> effective September 12, 2006, and published in the **Federal Register** on September 15, 2006 (71 FR 54402-54404, Docket No. APHIS-2006-0138), we amended the

<sup>1</sup> To view the interim rule and the comments we received, go to <http://www.regulations.gov>, click on the "Advanced Search" tab, and select "Docket Search." In the Docket ID field, enter APHIS-2006-0138, then click "Submit." Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.