

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 05-005-1]

#### Citrus Canker; Quarantined Areas

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

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

**SUMMARY:** We are amending the citrus canker regulations by updating the list of areas in the State of Florida quarantined because of citrus canker. To reflect the detection of citrus canker in an area adjacent to but outside of one current quarantined area in Florida, as well as in additional counties, we are expanding the boundaries of one existing quarantined area and adding several new areas to the list of quarantined areas. We are also removing a portion of one county from the list of quarantined areas because regular surveys have shown it to have been free of citrus canker for at least 2 years. These actions are necessary to prevent the spread of citrus canker into noninfested areas of the United States and to relieve restrictions that are no longer warranted.

**DATES:** This interim rule is effective February 25, 2005. We will consider all comments that we receive on or before April 26, 2005.

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

- **EDOCKET:** Go to <http://www.epa.gov/feddoctet> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View

Open APHIS Dockets" link to locate this document.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies) to Docket No. 05-005-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 05-005-1.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

**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:** You may view APHIS documents published in the **Federal Register** and related information on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Evans-Goldner, Assistant Staff Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1236, (301) 734-7228.

#### 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 301.75-16 (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 for the designation of survey areas around quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as buffer zones against the disease.

Under § 301.75-4(c) of the regulations, any State or portion of a State where an infestation is detected will be designated as a quarantined area and will retain that designation until the area has been free from citrus canker for 2 years.

Paragraph (d) of § 301.75-4 provides that less than an entire State will be designated as a quarantined area only if certain conditions are met. The State must, with certain specified exceptions, enforce restrictions on the intrastate movement of regulated articles from the quarantined area that are at least as stringent as those being enforced on the interstate movement of regulated articles from the quarantined area. The State must also undertake the destruction of all infected plants and trees. Under the regulations in § 301.75-6(c), within 7 days after confirmation that a plant or tree is infected, the State must provide written notice to the owner that the plant or tree must be destroyed. The owner then has 45 days in which to destroy the infected plant or tree. These State-conducted eradication activities within quarantined areas are an integral element of a cooperative State/Federal citrus canker program that, when successfully completed, will result in the eradication of citrus canker and the removal of an area's designation as a quarantined area.

#### Quarantined Areas

New infestations of citrus canker have been detected on properties adjacent to but outside of one current quarantined area in Florida, and in three additional areas. Therefore, we are amending the list of quarantined areas in § 301.75-4(a) by:

- Expanding the DeSoto B quarantined area in DeSoto County from 4.5 square miles to 15 square miles;
- Adding the Burnt Store (2.25 square miles) and the Farabee Grade (11.5 square miles) quarantined areas in Charlotte County; and

- Adding the Collier quarantined area (4 square miles) in Collier and Hendry Counties.

The State of Florida has placed these new areas under State quarantine and is enforcing restrictions on the intrastate movement of regulated articles from these quarantined areas. We have determined that Florida's restrictions on the intrastate movement of regulated articles from the quarantined areas are at least as stringent as those on the interstate movement of regulated articles from the quarantined areas. Therefore, as provided in § 301.75–4(d), we are designating areas less than the entire State as quarantined areas. An exact description of the quarantined areas can be found in the rule portion of this document.

#### Areas Removed From Quarantine

In this interim rule, we are removing a portion of Manatee County from the list of quarantined areas. As previously noted, the regulations provide that any State or portion of a State where an infestation is detected will be designated as a quarantined area and will retain that designation until the area has been free from citrus canker for 2 years. Regular and complete surveys of the area we are removing from the list of quarantined areas have been conducted approximately every 90 days over a period of at least 2 years since citrus canker was first detected. The area has been free of citrus canker for a period of at least 2 years and may thus be removed from the list of quarantined areas.

The necessary surveys for citrus canker have been conducted by APHIS and State inspectors, including surveys of citrus trees located in both commercial groves and at residential properties. In addition, any wild citrus known to be present in the area has also been surveyed. Although not required as a condition of declaring eradication in an area, in this case all abandoned citrus orchards have also been removed. Abandoned citrus groves present a challenge in conducting surveys; thus the removal of these groves increases our confidence that citrus canker is no longer present in this area.

Therefore, we are amending the regulations by removing the Duette quarantined area (7.75 square miles) in Manatee County, FL, from the list of quarantined areas in § 301.75–4(a). This action removes restrictions on the interstate movement of regulated articles from and through this area of Florida.

#### Miscellaneous

In addition to the changes to the quarantined areas discussed above, we are also amending the entries for Hendry County and Lee County in § 301.75–4(a) to correct several instances in which latitude is presented as longitude and vice versa.

#### Immediate Action

Immediate action is necessary to help prevent the spread of citrus canker to noninfected areas of the United States. This rule will also remove restrictions on the interstate movement of regulated articles from the portion of Manatee County, FL, that we are removing from the list of quarantined areas. 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

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This emergency situation makes timely compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a regulatory flexibility analysis.

#### 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.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact were prepared in April 1999 for the citrus canker eradication program. We have reviewed the environmental assessment and finding of no significant impact in light of the amendments made by this rule to the list of quarantined areas and have determined that the analysis and conclusions in those documents are still applicable, especially because the adjustments in this rule are minor. The assessment provides a basis for the conclusion that implementation of the citrus canker eradication program will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Internet at [http://www.aphis.usda.gov/ppq/enviro\\_docs/cc.html](http://www.aphis.usda.gov/ppq/enviro_docs/cc.html). Copies of the environmental assessment and finding of no significant impact are also available for public inspection in our reading room. (Information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this interim rule). In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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 section for part 301 continues to read as follows:

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

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

■ 2. In § 301.75–4, paragraph (a) is amended as follows:

■ a. By adding, in alphabetical order, an entry for Charlotte County and an entry for Collier and Hendry Counties to read as set forth below.

■ b. In the entry for DeSoto County, by revising paragraph (2) to read as set forth below.

■ c. In the entry for Hendry County, in paragraph (1), by removing the words “longitude N.” and adding the words “latitude N.” in their place, and by removing the words “latitude W.” and adding the words “longitude W.” in their place.

■ d. In the entry for Lee County, in paragraph (1), by removing the words “longitude N.” all three times they appear and adding the words “latitude N.” in their place, and by removing the words “latitude W.” all three times they appear and adding the words “longitude W.” in their place, and by revising paragraph (2) to read as set forth below.

■ e. By removing the entry for Manatee County.

**§ 301.75–4 Quarantined areas.**

(a) \* \* \*

\* \* \* \* \*

*Charlotte County.* (1) Burnt Store quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at a point on the northern boundary of sec. 3, T. 42 S., R. 23 E. at latitude N. 26.858513, longitude W. –82.004911; then west along the northern boundaries of secs. 3 and 4, T. 42 S., R. 23 E. approximately 1.25 miles to Burnt Store Road (State Highway 765); then south along the centerline of Burnt Store Road approximately 1.5 miles to a point at latitude N. 26.835843, longitude W. –82.021439; then east from that point 1 mile to the southwest corner of the property at 13285 Green Gulf Boulevard; then east along the southern boundary of the property at 13285 Green Gulf Boulevard to the centerline of Green Gulf Boulevard; then north along the centerline of Green Gulf Boulevard to Mushroom Drive; then east along the centerline of Mushroom Drive to Sulky Drive; then northwest along the

centerline of Sulky Drive to Monte Cristo Boulevard; then east along the centerline of Monte Cristo Boulevard to Panatella Drive; then north along the centerline of Panatella Drive to Treadmill Drive; then east along the centerline of Treadmill Drive to Path Avenue; then north along the centerline of Path Avenue to Barcelona Drive; then north along the centerline of Barcelona Drive to Tribune Boulevard; then west along the centerline of Tribune Boulevard to Del Rio Drive; then northeast, north, and west-northwest along the centerline of Del Rio Drive to Borax Avenue; then west along the centerline of Borax Avenue to San Souci Drive; then north along the centerline of Sans Souci Drive to Green Gulf Boulevard; then west along the centerline of Green Gulf Boulevard to a point at latitude N. 26.857943, longitude W. –82.004532; then northwest from that point along the western boundary of the property at 27046 Green Gulf Boulevard to the point of beginning.

(2) Farabee Grade quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at the northeast corner of sec. 1, T. 40 S., R. 26 E.; then west 3 miles to the northwest corner of sec. 3, T. 40 S., R. 26 E.; then south 1 mile to the northeast corner of sec. 9, T. 40 S., R. 26 E.; then west 1 mile to the northwest corner of sec. 9, T. 40 S., R. 26 E.; then south 1 mile to the southwest corner of sec. 9, T. 40 S., R. 26 E.; then east 1 mile to the northwest corner of sec. 15, T. 40 S., R. 26 E.; then south 1 mile to the southwest corner of sec. 15, T. 40 S., R. 26 E.; then east 3 miles to the southeast corner of sec. 13, T. 40 S., R. 26 E.; then north 0.5 mile to a point at latitude N. 26.9966539, longitude W. –81.661941; then east 1 mile, bisecting sec. 18, T. 40 S., R. 27 E., to a point at latitude N. 26.9967719, longitude W. –81.6456869; then north 1.5 miles to the northeast corner of sec. 7, T. 40 S., R. 27 E.; then west 1 mile to the northwest corner of sec. 7, T. 40 S., R. 27 E.; then north 1 mile to the point of beginning.

*Collier and Hendry Counties.* Collier quarantined area. That portion of the counties bounded by a line drawn as follows: Beginning at a point on the northern boundary of sec. 31, T. 47 S., R. 31 E. in Hendry County at latitude N. 26.355297, longitude W. –81.260533; then west along the northern boundary of sec. 31, T. 47 S., R. 31 E., crossing County Road 858 into Collier County and continuing west along the northern boundary of sec. 36, T. 47 S., R. 30 E. to the northwest corner of sec. 36; then south from the northwest corner of sec. 36 along the western boundary of sec. 36, T. 47 S., R. 30 E. to a point at

latitude N. 26.347806, longitude W. –81.284875; then west from that point to a point on the western boundary of sec. 35, T. 47 S., R. 30 E. at latitude N. 26.347239, longitude W. –81.303263; then south from that point to the southwest corner of sec. 35, T. 47 S., R. 30 E.; then east from the southwest corner of sec. 35, T. 47 S., R. 30 E. along the southern boundary of sec. 35, T. 47 S., R. 30 E. to a point at latitude N. 26.340264, longitude W. –81.291183; then south from that point to a point on the southern boundary of sec. 2, T. 48 S., R. 30 E. at latitude N. 26.325925, longitude W. –81.290672; then east from that point along the southern boundaries of secs. 2 and 1, T. 48 S., R. 30 E., crossing County Road 858 into Hendry County and continuing east along the southern boundary of sec. 6, T. 48 S., R. 31 E. to a point at latitude N. 26.326083, longitude W. –81.259617; then north from that point to the point of beginning.

*DeSoto County.* \* \* \*

(2) DeSoto B quarantined area. That portion of the county bounded by a line drawn as follows: Beginning at the northeast corner of sec. 11, T. 37 S., R. 25 E., then east along the northern boundaries of sec. 12, T. 37 S., R. 25 E. and secs. 7 and 8, T. 37 S., R. 26 E. to the northeast corner of sec. 8, T. 37 S., R. 26 E.; then south along the eastern boundary of sec. 8, T. 37 S., R. 26 E. to the northwest corner of sec. 16; T. 37 S., R. 26 E.; then east along the northern boundary of sec. 16, T. 37 S., R. 26 E. to the northeast corner of sec. 16, T. 37 S., R. 26 E.; then south along the eastern boundary of sec. 16, T. 37 S., R. 26 E. to the southeast corner of sec. 16, T. 37 S., R. 26 E.; then west along the southern boundary of sec. 16, T. 37 S., R. 26 E. for approximately 0.5 mile; then south into sec. 21, T. 37 S., R. 26 E. for approximately 0.5 mile; then west through secs. 21, 20, and 19, T. 37 S., R. 26 E. to the western boundary of sec. 19, T. 37 S., R. 26 E.; then north along the western boundary of sec. 19, T. 37 S., R. 26 E. to the southeast corner of sec. 13, T. 37 S., R. 25 E.; then west along the southern boundary of sec. 13, T. 37 S., R. 25 E. to the southwest corner of sec. 13, T. 37 S., R. 25 E.; then south along the eastern boundary of sec. 23, T. 37 S., R. 25 E. approximately 0.5 mile; then west 1 mile to the western boundary of sec. 23, T. 37 S., R. 25 E.; then north approximately 0.5 mile to the northeast corner of sec. 22, T. 37 S., R. 25 E.; then west approximately 0.5 mile along the northern boundary of sec. 22, T. 37 S., R. 25 E. to Mare Branch; then northwest along Mare Branch approximately 2,750 feet; then west approximately 1,221 feet to the western

boundary of sec. 15, T. 37 S., R. 25 E.; then north along the western boundary of sec. 15, T. 37 S., R. 25 E. to the northwest corner of sec. 15, T. 37 S., R. 25 E.; then west approximately 1,710 feet to the southwest corner of Multiblocks (MB) 52, 62, and 63; then north approximately 1,221 feet to the northwest corner of MB 52, 62, and 63; then east approximately 366 feet to the southwest corner of MB 51, 60, and 61; then north approximately 6,716 feet, crossing McIntyre Road and continuing to the midpoint of sec. 4, T. 37 S., R. 25 E.; then east approximately 1,221 feet to the western boundary of sec. 3, T. 37 S., R. 25 E.; then north approximately 977 feet to the southwest corner of MB 1, 17, 18, 19, and 20; then east approximately 2,442 feet; then north approximately 1,710 feet to the northern boundary of sec. 3, T. 37 S., R. 25 E.; then east to the northeast corner of sec. 2, T. 37 S., R. 25 E.; then south to the northeast corner of sec. 11, T. 37 S., R. 25 E., the point of beginning.

\* \* \* \* \*

*Lee County.* \* \* \*

(2) Pine Island quarantined area. That portion of the county bounded by a line drawn as follows: Beginning on the eastern Pine Island shoreline at a point on Cubles Drive at latitude N. 26.639400, longitude W. -82.106568; then south from that point along the eastern Pine Island shoreline to a point defined by latitude N. 26.619100, longitude W. -82.105556; then west from that point to Birdsong Lane; then west on Birdsong Lane to Stringfellow Road; then north on Stringfellow Road to latitude N. 26.619628, longitude W. -82.118863; then west from that point to latitude N. 26.319436, longitude W. -82.123956; then north from that point to latitude N. 26.624970, longitude W. -82.123990; then west from that point to latitude N. 26.624978, longitude W. -82.124627; then north from that point to latitude N. 26.626005, longitude W. -82.124567; then west from that point to latitude N. 26.626088, longitude W. -82.125245; then north from that point to latitude N. 26.634922, longitude W. -82.125165; then east from that point to Harry Street; then north on Harry Street to latitude N. 26.649310, longitude W. -82.125209; then east from that point to Stringfellow Road; then north on Stringfellow Road to Sailfish Road; then east on Sailfish Road to Marlin Road; then north on Marlin Road to Porpoise Road; then east on Porpoise Road to Dolphin Road; then north on Dolphin Road to Tarpon Road; then east on Tarpon Road to a point on Cristi Way at latitude N. 26.638367, longitude W. -82.118612; then north

from that point to latitude N. 26.638860, longitude W. -82.118562; then east from that point to a point on Sherwood Road at latitude N. 26.638865, longitude W. -82.109475; then north from that point to the intersection of Sherwood Road and Cubles Drive; then east on Cubles Drive to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 18th day of February 2005.

**Elizabeth E. Gaston,**

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

[FR Doc. 05-3685 Filed 2-24-05; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

**[Docket No. NM302; Special Conditions No. 25-286-SC]**

#### **Special Conditions: Cessna Aircraft Company Model 501 Airplanes; High Intensity Radiated Fields (HIRF)**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for Cessna Aircraft Company Model 501 airplanes modified by Garrett Aviation Services. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of Electronic Flight Displays with Engine Indication and Flight Information Systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is February 16, 2005. Comments must be received on or before March 28, 2005.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM302, 1601 Lind Avenue SW.,

Renton, Washington, 98055-4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM302.

**FOR FURTHER INFORMATION CONTACT:** Greg Dunn, FAA, Airplane and Flight Crew Interface Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; telephone (425) 227-2799; facsimile (425) 227-1149.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA has determined that notice and opportunity for prior public comment is impracticable because these procedures would significantly delay certification of the airplanes and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance; however, we invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments received.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

##### **Background**

On August 11, 2004, Garrett Aviation Services, 1200 North Airport Drive,