

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00-037-2]

RIN 0579-AB15

Citrus Canker; Payments for Recovery of Lost Production Income

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend our citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves could, subject to the availability of appropriated funds, receive payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker. These proposed lost production payments, which would serve to complement our October 16, 2000, interim rule that provides for the payment of tree replacement funds to eligible owners of commercial citrus groves, would help to reduce the economic effects of the citrus canker quarantine on affected commercial citrus growers.

DATES: We invite you to comment on this docket. For comments on all portions of this proposed rule except the rule's information collection and recordkeeping requirements that are subject to the Paperwork Reduction Act, consideration will be given only to comments received on or before January 8, 2001. For comments on the Paperwork Reduction Act requirements of this proposed rule, consideration will be given only to comments received on or before February 5, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 00-037-2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-

1238. Please state that your comment refers to Docket No. 00-037-2.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

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

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants that render the fruit unmarketable, and can 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 301.75-15 (referred to below as the regulations). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker and provide conditions under which regulated fruit may be moved into, through, and from quarantined areas for packing. The regulations currently list parts of Broward, Collier, Dade, Hendry, Hillsborough, and Manatee Counties, FL, as quarantined areas for citrus canker.

On October 16, 2000, we published in the **Federal Register** (65 FR 61077-61080, Docket No. 00-037-1) an interim rule that amended the regulations by adding a new section (§ 301.75-15) to provide for the payment of tree replacement funds to eligible owners of commercial citrus groves who have had citrus trees destroyed because of citrus canker. In that interim rule, we noted that we anticipated that additional funds would be made available to allow us to provide payments to the owners of commercial citrus groves for losses in production income resulting from the destruction of trees due to citrus canker. In this document, we are proposing to amend the regulations by adding another new section, § 301.75-16, that would address the payment of funds to recover income from production that was lost as the result of the removal of commercial citrus trees to control citrus canker. That proposed new section is explained in detail below.

Definitions (Section 301.75-1)

We are proposing to amend § 301.75-1, "Definitions," by adding a definition for the term *ACC coverage*, which would be used in proposed new § 301.75-16. We would define *ACC coverage* as "the crop insurance coverage against Asiatic citrus canker (ACC) provided under the Florida Fruit Tree Pilot Crop Insurance Program authorized by the Federal Crop Insurance Corporation" (FCIC). This crop insurance pilot covers 29 Florida counties, including the 6 counties that currently contain citrus canker quarantined areas, and allows growers to insure covered citrus tree varieties against both standard perils (losses resulting from freezes, wind, and excess moisture) and losses due to citrus canker (referred to by FCIC as Asiatic citrus canker or ACC). Eligibility for the two sets of perils (standard and ACC) is determined separately; thus, an insured grower may qualify for coverage against the standard perils but not against ACC. While growers located in counties that do not contain quarantined areas qualify for ACC coverage automatically, growers located in counties that do contain quarantined areas are required to obtain an ACC underwriting certification, which describes the status of citrus trees with respect to citrus canker, from APHIS or from the Florida Department of Food and Consumer Services'

Division of Plant Industry (DPI). If a grower's trees are certified by APHIS or DPI as being infected with or exposed to citrus canker, the trees are not eligible for ACC coverage under the crop insurance pilot.

Payments for the Recovery of Lost Production Income (Proposed Section 301.75-16)

The introductory text of proposed § 301.75-16 would provide that our ability to make payments to commercial citrus producers to recover income from production that was lost as the result of the removal of commercial citrus trees to control citrus canker is contingent upon the availability of funds appropriated for that purpose. Because the Secretary of Agriculture has not found it necessary to declare an extraordinary emergency with respect to citrus canker in Florida, the Animal and Plant Health Inspection Service (APHIS) does not have the authority under the Plant Protection Act to establish a compensation program to cover losses associated with the current citrus canker outbreak in that State. Therefore, we may provide payments for the recovery of lost production income only if appropriated funds are made available for that purpose. Such funds have been made available in section 203(e) of the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224), which provides that \$25 million shall be used by the Secretary to compensate commercial growers for losses due to Pierce's disease, plum pox, and citrus canker. In addition, \$58 million were made available for payments to commercial citrus and lime producers in Florida in the Department's fiscal year (FY) 2001 appropriation. Specifically, paragraphs (a) through (e) of section 810 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106-387) state the following:

(a) The Secretary of Agriculture shall pay Florida commercial citrus and lime growers \$26 for each commercial citrus or lime tree removed to control citrus canker in order to allow for tree replacement and associated business costs. Payments under this subsection shall be capped in accordance with the following trees per acre limitations:

- (1) In the case of grapefruit, 104 trees per acre;
- (2) In the case of valencias, 123 trees per acre;
- (3) In the case of navels, 118 trees per acre;
- (4) In the case of tangelos, 114 trees per acre;
- (5) In the case of limes, 154 trees per acre; and
- (6) in the case of other or mixed citrus, 104 trees per acre.

(b) The Secretary of Agriculture shall compensate Florida commercial citrus and lime growers for lost production, as determined by the Secretary of Agriculture, with respect to trees removed to control citrus canker.

(c) To receive assistance under this section, a tree referred to in subsection (a) or (b) must have been removed after January 1, 1986, and before September 30, 2001.

(d) In the case of a removed tree that was covered by a crop insurance tree policy, compensation for lost production under subsection (b) with respect to such a tree shall be reduced by the indemnity received with respect to such a tree. In the case of a removed tree that was not covered by a crop insurance tree policy, although such insurance was available for the tree, compensation for lost production under subsection (b) with respect to such a tree shall be reduced by 5 percent.

(e) The Secretary of Agriculture shall use \$58,000,000 of the funds of the Commodity Credit Corporation to carry out this section, to remain available until expended.

Eligibility

Under paragraph (a) of proposed § 301.75-16, the owner of a commercial citrus grove would be eligible to receive payments to recover net income from production that was lost as the result of the removal of commercial citrus trees to control citrus canker if the trees were removed pursuant to a public order between 1986 and 1990 or on or after

September 28, 1995. Although the current citrus canker infestation was detected in Florida on September 28, 1995, the State of Florida has identified five commercial citrus groves in Manatee and Highlands Counties that were destroyed to control citrus canker during a limited outbreak of the disease that occurred between 1986 and 1990. The proposed eligibility period would ensure that lost production payments could be made to those growers affected during that limited outbreak in Manatee and Highlands Counties as well as those growers affected during the current outbreak.

Per-Acre Payments

Proposed § 310.75-16(b)(1) would provide the per-acre amounts that would be paid to the owners of eligible commercial citrus groves. The amount that would be paid per acre of destroyed commercial citrus groves would vary, depending on the type of citrus trees that constituted a particular grove.

The per-acre payments that we are proposing in this document are based on the estimated per-acre loss in value of the destroyed groves. This loss in value is the difference between the net present value (NPV) of the original (destroyed) grove before it was infected with or exposed to citrus canker minus the NPV of the replanted grove for its entire productive life.¹ To calculate the NPV of a grove (both original and replanted groves), we used discounted cash flow analysis, which takes into account the quantity, variability, and duration of the forecasted income stream over a specified income projection period. Each year's net income is discounted back to a present worth figure at the appropriate, market-derived discount rate. The valuation model can be expressed in the following equation form, where Y = net income, r = discount rate, and n = number of years in the discount period:

$$NPV = \frac{Y_1}{(1+r)^1} + \frac{Y_2}{(1+r)^2} + \frac{Y_3}{(1+r)^3} + \dots + \frac{Y_n}{(1+r)^n}$$

To calculate NPV using the above equation, we had to determine net income, the discount rate, and the number of years in the discount period. Each of these inputs is discussed below. A more detailed analysis may be

obtained from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Net income. To determine the per-acre net income for each variety of fruit, we multiplied the yield (number of boxes) per tree by the price per box, then subtracted the production cost per

tree to arrive at the cash flow per tree; the cash flow per tree was then multiplied by the number of trees per acre to determine per-acre net income. The values used for the variables in our calculations, which are based on information obtained from the Florida

¹ The expected productive life of a lime grove is 25 years; for other varieties of citrus, the expected productive life of a grove is 36 years. The age of the trees destroyed to date has been mixed, even

within individual groves; based on available information, we have determined that the average (mean) age of the trees that have been destroyed was 14 years for grapefruit, 12 years for tangelos,

Valencia oranges, and navel oranges, and 4 years for limes.

Agricultural Statistics Service and the University of Florida's Institute of Food and Agricultural Services, are as follows:

GRAPEFRUIT *

Yield (88-lb. boxes per tree)	Years 1–2 0.00	Years 3–5 1.95	Years 6–8 3.19	Years 9–13 4.20	Years 14–19 4.91	Years 20–36 5.28
Price per box	\$3.58					
Production costs	Year 1 \$10.16 per tree		Year 2 \$3.79 per tree		Years 3–36 \$1.852 per box	
Trees per acre	104					

* In our October 16, 2000, interim rule, this category was referred to as "Grapefruit, red seedless." It is referred to as "Grapefruit" in this proposed rule to conform with the language used in Sec. 810 of Public Law 106–387.

ORANGE, VALENCIA

Yield (88-lb. boxes per tree)	Years 1–2 0.00	Years 3–5 1.18	Years 6–8 2.09	Years 9–13 2.30	Years 14–19 3.64	Years 20–36 4.38
Price per box	\$5.29					
Production costs	Year 1 \$10.16 per tree		Year 2 \$3.79 per tree		Years 3–36 \$2.134 per box	
Trees per acre	123					

ORANGE, NAVEL **

Yield (88-lb. boxes per tree)	Years 1–2 0.00	Years 3–5 1.23	Years 6–8 2.69	Years 9–13 3.56	Years 14–19 4.71	Years 20–36 5.67
Price per box	\$4.14					
Production costs	Year 1 \$10.16 per tree		Year 2 \$3.79 per tree		Years 3–36 \$1.853 per box	
Trees per acre	118					

** In our October 16, 2000, interim rule, this category of oranges was referred to as "Orange, early/midseason/navel." It is referred to as "Orange, navel" in this proposed rule to conform with the language used in Sec. 810 of Public Law 106–387.

TANGELO

Yield (88-lb. boxes per tree)	Years 1–2 0.00	Years 3–5 0.87	Years 6–8 1.90	Years 9–13 2.51	Years 14–19 3.32	Years 20–36 4.00
Price per box	\$3.88					
Production costs	Year 1 \$10.16 per tree		Year 2 \$3.79 per tree		Years 3–36 \$1.852 per box	
Trees per acre	114					

LIME

Yield (88-lb. boxes per tree)	Year 1 0.16	Year 2 0.60	Year 3 1.07	Year 4 1.38	Year 5 1.83	Year 6 2.11	Year 7 2.48	Yrs 8–25 2.61
Price per box	\$9.11							
Production costs	Year 1 \$12.57 per tree			Year 2 \$7.79 per tree			Years 3–25 \$6.55 per box	
Trees per acre	154							

Discount rate. The discount rate used in the equation differed for original groves and replanted groves. Based on information provided by extension

economists in Florida and citrus industry economists, we have applied the following discount rates when calculating the NPV of replanted groves,

as replanting would not be expected to occur until the production area is free from citrus canker: 14 percent for grapefruit; 14.5 percent for tangelos and

Valencia and navel oranges; and 13.5 percent for limes. Based on the discount rates applied to production in areas free from citrus canker, we estimated that the following discount rates would be appropriate for income that could be earned from a grove in an area where citrus canker is present: 15 percent for grapefruit; 15.5 percent for tangelos and Valencia and navel oranges; and 14.5 percent for limes. These higher discount rates reflect the increased risk that would be associated with citrus production in an area known to have citrus canker.

Number of years in discount period. The NPV was calculated using a life cycle approach.

The revenues and costs were calculated over a period equal to the expected productive life of a replanted grove, which, as noted previously, is 25

years for lime groves and 36 years for other varieties of citrus.

Based on the recommendations of extension economists and sources within the citrus industry, payments for the recovery of lost production income would be made on a per-acre basis, rather than on a per-tree basis, because output per acre is approximately the same, regardless of the number of trees per acre. Paying on a per-tree basis would likely result in underpayments to growers with older groves, which normally have fewer, but larger and more productive, trees, and in overpayments to growers with newer groves, which normally have more trees that are smaller and produce less fruit per tree than the larger trees. The trend in the industry is to plant more trees per acre; smaller trees allow for easier

harvesting, making it easier to find workers willing to do this type of work.

Using the information and methodology set forth in the preceding paragraphs, we have calculated the per-acre NPV for each variety of citrus considered in this proposed rule. The NPV includes the lost production component considered in this proposed rule as well as the tree replacement component addressed in our October 16, 2000, interim rule that established § 301.75–15, “Funds for the replacement of commercial citrus trees.” Because the regulations in § 301.75–15 already provide for tree replacement payments, we have subtracted those tree replacement payments (*i.e.*, \$26 times the number of trees per acre) from the NPV to arrive at the proposed per-acre lost production payments presented in the following table:

Citrus variety	Trees per acre*	Per-tree payment*	Tree replacement payment (per acre)*	Lost production payment (per acre)	NPV (per acre)
Grapefruit	104	\$26	\$2,704	\$2,925	\$5,629
Orange, Valencia	123	26	3,198	5,729	8,927
Orange, navel	118	26	3,068	5,693	8,761
Tangelo	114	26	2,964	1,666	4,630
Lime	154	26	4,004	4,829	8,833
Other or mixed citrus**	104	26	2,704	2,925	5,629

* Trees per acre, pre-tree payment, and tree replacement payment per acre reflect the limitations established in Sec. 810(a) of Public Law 106–387.

** Records provided by the State of Florida list approximately 32 acres of “other, unidentified” citrus trees as having been destroyed due to citrus canker before December 31, 1999. Under this proposed rule, the payment for those “other, unidentified” citrus trees would be the same as that for grapefruit. Since the time those initial records were provided by Florida, we have been able to determine that the “other, unidentified” category of citrus groves is a mix of trees not conveniently categorized. The mix of trees may include grapefruit, oranges, and specialty crops. Based on the fact that 82 percent of the acreage destroyed before December 31, 1999, consisted of grapefruit, APHIS used grapefruit production and cost data to estimate the value of the “other, unidentified” groves.

Payment Adjustments

Paragraph (b)(2) of proposed § 301.75–16 would provide for adjustments to be made to the per-acre payments discussed above in those cases where ACC coverage had been available for the destroyed trees. Specifically, under proposed § 301.75–16(b)(2)(i), if the owner of a commercial citrus grove had obtained ACC coverage for trees in his or her grove and had received crop insurance payments following the destruction of the insured trees, the payment provided for under paragraph (b)(1) of this section will be reduced by the total amount of the crop insurance payments received by the commercial citrus grove’s owner for the insured trees. This proposed adjustment would enable us to deduct any indemnity for destroyed trees that may have been received by a grower through crop insurance, thus ensuring that the grove owner did not receive two payments for the same destroyed trees.

If the owner of a commercial citrus grove had been eligible to obtain ACC coverage for the trees in his or her grove, but that owner had not obtained the available coverage, proposed § 301.75–16(b)(2)(ii) would provide that the per-acre lost production payment would be reduced by 5 percent, as required by Sec. 810(d) of Public Law 106–387. This would respond to concerns that if APHIS provided full lost production payments to insurance-eligible commercial growers who elected not to obtain ACC coverage against citrus canker losses, those full payments would likely undermine the intent and effectiveness of the Federal crop insurance program by making it appear that crop insurance was not necessary.

How To Apply

Paragraph (c) of proposed § 301.75–16 would provide information on how to apply for lost production payments. This paragraph would state that the form necessary to apply for payments could be obtained from any local citrus

canker program office or from the USDA Citrus Canker Eradication Project office in Miami, FL. Completed claim forms would have to be sent to the USDA Citrus Canker Eradication Project office in Winter Haven, FL, which is where the DPI records necessary to validate claims are located. This paragraph would also state that an applicant should, when submitting a completed application, include with the form a copy of the public order that directed the destruction of the trees, the order’s accompanying inventory that describes the acreage, number, and variety of trees removed, and documentation verifying that the destruction of trees had been completed and the date of that destruction. Claims for losses attributable to the destruction of trees on or before the effective date of the final rule implementing the provisions of this proposed rule would have to be received within 60 days after the effective date of the final rule. Claims for losses attributable to the destruction of trees after the effective date of the

final rule would have to be received within 60 days after the destruction of the trees.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

The following economic analysis provides a cost-benefit analysis as

required by Executive Order 12866 and an analysis of the potential economic effects on small entities as required by the Regulatory Flexibility Act.

This proposed rule would amend the citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves could, subject to the availability of appropriated funds, receive payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker. These proposed lost production payments, which would serve to

complement our October 16, 2000, interim rule that provides for the payment of tree replacement funds to eligible owners of commercial citrus groves, would help to reduce the economic effects of the citrus canker quarantine on affected commercial citrus growers.

As shown in the table below, the United States produced approximately 16,990 tons of oranges, grapefruit, limes, tangerines, and tangelos worth \$2.25 billion in 1998, with Florida producing nearly half of that total.

Fruit	1998				
	U.S. production (tons)	Value of U.S. production (millions)	Florida production (tons)	Value of Florida production (millions)	Florida share of production (%)
Oranges	13,857	\$1,930.5	6,051	\$843.0	43.67
Tangerines	360	96.1	228	61.0	63.41
Grapefruit	2,626	211.9	2,001	161.4	76.20
Limes	19	4.3	14	3.1	72.72
Tangelos	128	11.7	128	11.7	100.00
Total	16,990	2,254.5	8,422	1,080.2

Source: USDA, National Agricultural Statistics Service, *Agricultural Statistics*, 1999.

Removing the infected and exposed trees protects a substantial investment in other citrus groves. While the entire value of citrus produced is not at risk immediately from citrus canker, the disease would, if left unchecked, continue to spread. In time, the entire industry would be at risk.

According to the data provided to APHIS by the State of Florida, approximately 8,418 acres of commercial citrus trees have been destroyed to control citrus canker by November 15, 2000. This figure includes an estimated 7,814 acres of commercial

citrus that have been destroyed since the current citrus canker outbreak was detected in September 1995, as well as approximately 604 acres of grapefruit trees from 5 groves in Manatee and Highlands Counties that were destroyed between 1986 and 1990 to control citrus canker during a limited outbreak of the disease during that period.

As shown in the following table, which was prepared using the acreage estimates provided by the State of Florida and the proposed per-acre payments contained in this proposed rule, lost production payments for

commercial citrus trees destroyed by November 15, 2000, would total between about \$29.1 to \$36.5 million. The uncertainty in this estimate is attributable to the fact that, of the 8,418 acres estimated to have been destroyed by November 15, 2000, there are about 1,806 acres that have not yet been broken out by variety in the data available to us. To account for that acreage, we have multiplied the acreage (1,806.38) by the lowest (\$1,666) and highest (\$5,729) of the proposed per-acre payments to identify the entire range of possible total claims.²

Variety	Estimated acreage destroyed by 11/15/00	Proposed per-acre payment	Estimated lost production claims
Grapefruit	3,201.00	\$2,925	\$9,362,925
Oranges, Valencia	58.30	5,729	334,001
Oranges, navel	380.22	5,693	2,164,592
Tangelos	11.13	1,666	18,543
Limes	2,929.00	4,829	14,144,141
Other or mixed citrus	31.97	2,925	93,512
Subtotal	6,611.62	26,117,714
Variety not yet identified	1,806.38	1,666–5,729	3,009,429–10,348,751

² We believe that figure provided in the table for limes—2,929 acres—accounts for all lime acreage destroyed by November 15, 2000, so the presently unidentified acreage can be expected to consist of a mix of grapefruit, Valencia and navel oranges, and tangelos, which collectively account for

approximately 3,650 acres in the table. Of that 3,650 acres, grapefruit accounts for 87.6 percent, Valencia oranges for 1.6 percent, navel oranges for 10.4 percent, and tangelos for 0.4 percent. Applying those same percentages to the 1,806.38 acres of currently unidentified citrus would translate to lost

production claims of about \$5.876 million for that acreage, which would result in total lost production claims for acreage destroyed by November 15, 2000, of about \$31.993 million.

Variety	Estimated acreage de- stroyed by 11/15/00	Proposed per- acre payment	Estimated lost production claims
Total	8,418	29,127,143– \$36,466,465

Effects on Small Entities

This proposed rule would establish provisions under which eligible owners of commercial citrus groves could, subject to the availability of appropriated funds, receive payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker. Therefore, the entities who would be affected by this proposed rule would be citrus growers. The Regulatory Flexibility Act requires that the Agency specifically consider the economic effects of its rules on small entities. The Small Business Administration (SBA) defines a firm engaged in agriculture as "small" if it has less than \$500,000 in annual receipts. While the majority of citrus growers in Florida would be considered small entities under those SBA guidelines, those growers who would not be classified as small entities account for the majority of the citrus-growing acreage in the State. Based on available information, it appears that most of the citrus canker-related losses in Florida have been incurred by those larger citrus producers. Regardless of the size of the entities affected, we expect that this proposed rule would benefit those commercial citrus growers who are eligible for lost production payments by helping to defray some of the losses and expenses that they have incurred as a result of the ongoing State and Federal efforts to eradicate citrus canker in Florida.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with

this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 00–037–2. Please send a copy of your comments to: (1) Docket No. 00–037–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the citrus canker regulations to establish provisions under which eligible owners of commercial citrus groves could, subject to the availability of appropriated funds, receive payments to recover production income lost as a result of the removal of commercial citrus trees to control citrus canker. Implementing this program would necessitate the use of an information collection activity in the form of an application for funds.

We are soliciting comments from the public 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 0.16 hours per response.

Respondents: Eligible commercial citrus grove owners in Florida.

Estimated annual number of respondents: 65.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 65.

Estimated total annual burden on respondents: 10 hours.

(Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained by calling 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 propose to amend 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 would be revised to read as follows:

Authority: Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 166; 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.

2. Section 301.75–1 would be amended by adding a definition of *ACC coverage* to read as follows:

§ 301.75-1 Definitions.

ACC coverage. The crop insurance coverage against Asiatic citrus canker (ACC) provided under the Florida Fruit Tree Pilot Crop Insurance Program authorized by the Federal Crop Insurance Corporation.

* * * * *

3. In Subpart—Citrus Canker, a new § 301.75-16 would be added to read as follows:

§ 301.75-16 Payments for the recovery of lost production income.

Subject to the availability of appropriated funds, the owner of a commercial citrus grove may be eligible to receive payments in accordance with the provisions of this section to recover income from production that was lost as the result of the removal of commercial citrus trees to control citrus canker.

(a) *Eligibility.* The owner of a commercial citrus grove may be eligible to receive payments to recover income from production that was lost as the result of the removal of commercial citrus trees to control citrus canker if the trees were removed pursuant to a public order between 1986 and 1990 or on or after September 28, 1995.

(b) *Calculation of payments.* (1) The owner of a commercial citrus grove who is eligible under paragraph (a) of this section to receive payments to recover lost production income will, upon approval of an application submitted in accordance with paragraph (c) of this section, receive a payment calculated using the following rates:

Citrus variety	Payment (per acre)
Grapefruit	\$2,925
Orange, Valencia	5,729
Orange, navel	5,693
Tangelo	1,666
Lime	4,829
Other or mixed citrus	2,925

(2) Payment adjustments.

(i) In cases where the owner of a commercial citrus grove had obtained ACC coverage for trees in his or her grove and received crop insurance payments following the destruction of the insured trees, the payment provided for under paragraph (b)(1) of this section will be reduced by the total amount of the crop insurance payments received by the commercial citrus grove's owner for the insured trees.

(ii) In cases where ACC coverage was available for trees in a commercial citrus grove but the owner of the grove had not obtained ACC coverage for his or her insurable trees, the per-acre payment provided for under paragraph (b)(1) of

this section will be reduced by 5 percent.

(c) *How to apply for lost production payments.* The form necessary to apply for lost production payments may be obtained from any local citrus canker eradication program office in Florida, or from the USDA Citrus Canker Project, 10300 SW 72nd Street, Suite 150, Miami, FL 33173. The completed application should be accompanied by a copy of the public order directing the destruction of the trees and its accompanying inventory that describes the acreage, number, and the variety of trees removed. Your completed application must be sent to the USDA Citrus Canker Eradication Project, Attn: Lost Production Payments Program, c/o Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, FL 33881. Claims for losses attributable to the destruction of trees on or before [the effective date of this rule] must be received within 60 days after [the effective date of this rule]. Claims for losses attributable to the destruction of trees after [the effective date of this rule] must be received within 60 days after the destruction of the trees.

Done in Washington, DC, this 1st day of December 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00-31142 Filed 12-4-00; 11:17 am]

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DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Part 208**

[INS No. 2092-00; AG Order No. 2339-2000]

RIN 1115-AF92

Asylum and Withholding Definitions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (Service) regulations that govern establishing asylum and withholding eligibility. This rule provides guidance on the definitions of "persecution" and "membership in a particular social group," as well as what it means for persecution to be "on account of" a protected characteristic in the definition of a refugee. It restates that gender can form the basis of a particular social group. It also establishes principles for

interpretation and application of the various components of the statutory definition of "refugee" for asylum and withholding cases generally, and, in particular, will aid in the assessment of claims made by applicants who have suffered or fear domestic violence. The Service believes these issues require further examination after the Board of Immigration Appeals (Board) decision in *In re R-A-*, Interim Decision 3403 (BIA 1999). Further, the rule clarifies that the factors considered in cases in the Court of Appeals for the Ninth Circuit regarding membership in a particular social group are not determinative. Finally, the rule clarifies procedural handling of asylum and withholding claims in which past persecution has been established. This proposed rule has been prepared and is published in conjunction with the final rule on asylum procedures, which incorporates both the interim rule amending the Department of Justice (Department) regulations to implement the Illegal Immigration Reform and Immigrant Responsibility Act, 62 FR 10312 (1997), and the proposed past persecution rule, 63 FR 31945 (1998).

DATES: Written comments must be submitted on or before January 22, 2001.

ADDRESSES: Please submit written comments in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2092-00 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Dorothea Lay, 425 I Street, NW, Washington, D.C. 20536, telephone number (202) 514-2895.

SUPPLEMENTARY INFORMATION:**Background**

The purpose of this rule is to provide guidance on certain issues that have arisen in the context of asylum and withholding adjudications. The 1951 Geneva Convention relating to the Status of Refugees (1951 Convention) contains the internationally accepted definition of a refugee. United States immigration law incorporates an almost identical definition of a refugee as a person outside his or her country of origin "who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality,