arising from either (1) an agreement or contract concerning a teaming arrangement, a joint venture, or similar arrangement of shared interest; or (2) dual sourcing, co-production, or similar programs, are unallowable, except when (i) incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer, or (ii) when agreed to in writing by the contracting officer.

(f) In determining the allowability of costs (including retainer fees) in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the contracting officer shall consider the following factors, among others.

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the contractor's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to the award of Government contracts.

(4) The impact of Government contracts on the contractor's business.

(5) Whether the proportion of Government work to the contractor's total business is such as to influence the contractor in favor of incurring the cost, particularly when the services rendered are not of a continuing nature and have little relationship to work under Government contracts.

(6) Whether the service can be performed more economically by employment rather than by contracting.

(7) The qualifications of the individual of concern rendering the service and the customary fee charged, especially on nongovernment contracts.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, termination provisions).

(g) Retainer fees to be allowable must be supported by evidence that—

(1) The services covered by the retainer agreement are necessary and customary;

(2) The level of past services justifies the amount of the retainer fees; (if no services were rendered, fees are not automatically unallowable); and

(3) The retainer fee is reasonable in comparison with maintaining an in-house capability to perform the covered services, when factors such as cost and level of expertise are considered.

(h) Fees for services rendered shall be allowable only when supported by evidence of the nature and scope of the service furnished. (Also see 31.205-38(g)). Such evidence may include, to the extent necessary to ensure that the work performed is proper and does not violate law or regulation:

(1) Details of all agreements (e.g., work requirements, rate of compensation, and nature and amount of other expenses, if any) with the individuals or organizations providing the services and details of actual services performed.

(2) Invoices or billings subitted by consultants, including sufficient detail as to the time expended and nature of the actual services provided.

(3) Consultants' work products and related documents such as trip reports indicating persons visited and subjects discussed, minutes of meetings, and collateral memoranda and reports.

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federal register

Friday
October 21, 1988

Part IX

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 14 and 15
Federal Acquisition Regulation (FAR): Master Solicitation; Proposed Rule

Part IX

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 11 and 13
Federal Acquisition Regulation (FAR); Master Solicitation; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14 and 15

Federal Acquisition Regulation (FAR); Master Solicitation

AGENCIES: Department of Defense (DoD) General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 14.203 and 15.408 to add coverage on the use of master solicitations.

Comments: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 20, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 88–49 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98–577 and publication for public comment is not required. Master solicitations, in and of themselves, are nothing more than a package of provisions and clauses sent to contractors who are on bidders mailing lists and the package is referred to when an actual solicitation is issued. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR sections will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88–610 in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose any recordkeeping or information collection requirements from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 14 and 15

Government procurement.

Dated: October 12, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 14 and 15 be amended as set forth below:

1. The authority citation for Parts 14 and 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 14—SEALED BIDDING

2. Section 14.203 is amended by adding a subsection to read as follows:

14.203–3 Master solicitation.

(a) *Definition.* "Master solicitation," as used in this subsection, means a document containing special clauses and provisions that have been identified as essential for the acquisition of a specific type of supply or service that is acquired repetitively.

(b) *Use.* The master solicitation is provided to potential sources who are requested to retain it for continued and repetitive use. Individual solicitations shall reference the date of the current master solicitation and any changes thereto. Copies of the master solicitation shall be made available on request. Cognizant contract administration activities shall be provided a current copy of the master solicitation.

PART 15—CONTRACTING BY NEGOTIATION

3. Section 15.408 is amended by adding paragraph (d) to read as follows:

15.408 Issuing solicitations.

* * * * *

(d) A master solicitation may be used for negotiated acquisitions, subject to the criteria and procedures in 14.203–3.

[FR Doc. 88–24410 Filed 10–20–88; 8:45 am]

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federal register

Friday
October 21, 1988

Part X

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 301

Interstate Movement of Citrus Fruit and Calamondin and Kumquat Plants From Florida; Proposed Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 88-105]

Interstate Movement of Citrus Fruit and Calamondin and Kumquat Plants From Florida

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to revise the "Citrus Canker" regulations as follows:

(1) By relieving some restrictions on the interstate movement of regulated fruit produced in groves outside the area of Florida where there have been primary infestations of citrus canker caused by the Asiatic strains. This proposal is based on observations made in the field and on scientific data indicating that the Florida nursery strains are extremely unlikely to infect mature citrus trees and fruit in groves or to damage fruit. This action would remove requirements that appear to exceed what is needed to prevent the interstate spread of the form of citrus canker caused by the Florida nursery strains;

(2) By allowing calamondin and kumquat plants grown from seeds or rooted cuttings in nurseries or groves outside the area of Florida where there have been primary infestations of citrus canker caused by the Asiatic strains to be moved interstate under less stringent conditions than at present and to all areas of the United States except commercial citrus-producing areas. This proposal would relieve what appear to be unnecessary restrictions on the interstate movement of plants that are highly resistant to citrus canker;

(3) By prohibiting the interstate movement from Florida of budded or grafted calamondin and kumquat plants, which may have been grown from rootstocks of plants susceptible to and capable of transmitting citrus canker. This proposal appears necessary to prevent the interstate spread of this disease;

(4) By adding the species *Clausena lansium* (Lour.) Skeels (common name, wampi) to the list of articles regulated because of citrus canker, thereby prohibiting the interstate movement of these plants from Florida. This proposal appears necessary to prevent the interstate spread of citrus canker because wampi plants in Florida have been found infected with the form of citrus canker caused by the Florida nursery strains;

(5) By reducing the area of Florida that is under special restriction because of citrus canker caused by the Asiatic strains.

DATE: Consideration will be given only to written comments postmarked or received on or before November 21, 1988.

ADDRESSES: Send an original and three copies of written comments to Regulatory Coordination, APHIS, USDA, Room 728 Federal Building, 6505 Belcrest Rd., Hyattsville, MD 20782. Please state that your comments refer to Docket 88-105. Comments received may be inspected at USDA, 14th and Independence Ave., SW, Room 1141 South Bldg., between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of infected plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity. Aggressive strains of *Xanthomonas campestris* pv. *citri* can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The Animal and Plant Health Inspection Service (APHIS) established the citrus canker regulations (contained in 7 CFR 301.75 and referred to below as the regulations) in 1984 after plants at several central Florida citrus nurseries were found to be infected with previously undescribed strains of *Xanthomonas campestris* pv. *citri*. These strains have come to be known as the Florida nursery strains. Because little was known about these strains at that time, and because some strains of *Xanthomonas campestris* pv. *citri* are known to cause a very serious plant disease, the regulations placed severe constraints on the interstate movement of potential host material from Florida. Later, when trees infected with the Asiatic strains of *Xanthomonas campestris* pv. *citri* were detected on citrus trees on residential properties and in a commercial grove near Bradenton, in Manatee County, Florida, the same regulations applied.

Over time, both research and observations made in the field yielded data suggesting that there were important differences between the Florida nursery strains and the Asiatic strains of *Xanthomonas campestris* pv. *citri* and the diseases caused by these strains.These differences were summarized as follows in a final rule published in the **Federal Register** on February 11, 1988 (53 FR 3999-4006, Docket No. 88-001):

> The Florida nursery strains of the bacterium *Xanthomonas Campestris* pv. *citri* are associated primarily with outbreaks of citrus canker in plant nurseries. They have been found only in Florida. Current information suggests that this form of citrus canker is pathogenetically and genetically different from the disease caused by Asiatic strains of citrus canker, and never has been found on fruit in a commercial grove.

Because of these differences, we amended the regulations, by the final rule cited above, to reduce restrictions on the interstate movement of fruit from all areas of Florida except the area where there have been primary infestations of citrus canker caused by the Asiatic strains.

At the same time, recognizing that many questions about the Florida nursery strains remained unanswered, APHIS invited a blue-ribbon panel of plant pathologists to review all of the research pertaining to the Florida nursery strains and to consider specific questions concerning the taxonomy and biology of these strains. The panel met last March in Gainesville, Florida, and delivered its report to APHIS in April. The report was published in the **Federal Register** on June 28, 1988 (53 FR 24296-24298, Docket No. 88-100) as part of an advance notice of proposed rulemaking that solicited public comment on whether and how, as a result of the panel's report, we should revise the regulations. Following are the options we asked the public to consider:

1. Reduce the quarantined area in Florida to include only that area where within the past 2 years, there have been infestations of citrus canker caused by the Asiatic strains.

2. Reduce the restrictions on the interstate movement of regulated articles from all areas of Florida except that area where, within the past 2 years, there have been infestations of citrus canker caused by the Asiatic strains.

3. Maintain the current regulations.

We received 34 comments concerning these options from individual growers, nursery owners, grower and packing associations, other representatives of the citrus industry, and state government officials in Arizona, California, Florida, Louisiana, and Texas. Nine commenters supported Option 1; 14 supported Option 2; and 11 supported Option 3.

Based on the report by the blue-ribbon panel and a review of the current citrus canker eradication program, and after considering all the comments we received concerning the advance notice of proposed rulemaking, we are proposing to revise the regulations in line with Option 2. We do not support Option 1 because we know that the Florida nursery strains can, in some cases, seriously damage nursery plants, and because we believe that further research may be necessary to finally resolve the question of whether the Florida nursery strains can infect and damage mature trees and fruit in commercial groves. Nonetheless, we believe the current regulations, designed to prevent the spread of virulent forms of citrus canker such as that caused by the Asiatic strains, go beyond what is necessary to prevent the spread of the form of citrus canker caused by the Florida nursery strains. Four years after the form of citrus canker caused by the Florida nursery strains was first detected in Florida, we still have not found it in commercial groves, except in three instances where infected transplants had been moved to groves from infested nurseries. (In two of these instances, there was no evidence that the disease had spread from these plants to other plants in the grove. In the third case, the grove was not well maintained, and inspection revealed some local spread to sprouts from Swingle rootstock. In none of these instances was infected fruit found, and, after the infected plants were removed, no additional infections were observed.) Research and observations made in the field over the last four years suggest that the Florida nursery strains cause a form of citrus canker disease that is different from and less serious than the form of citrus canker disease caused by the Asiatic strains. Option 2 would continue to provide protection against the interstate spread of the form of citrus canker caused by the Florida nursery strains while relieving what appear to be unnecessary burdens on those involved in the interstate movement of regulated articles.

Specific proposed changes to the regulations are discussed below.

Certificates for Interstate Movement of Regulated Fruit

Current Requirements

Regulated fruit from any area of Florida where a primary infestation caused by Asiatic strains has occurred is not eligible for interstate movement with a certificate until 2 years after the last infested plant in the area has been destroyed. Regulated fruit produced in other areas of Florida may be moved interstate with a certificate to any area of the United States, including commercial citrus-producing areas, if the following conditions are met:

(1) The fruit is harvested from a grove of 10 or more regulated trees;

(2) The grove producing the fruit has not contained any infested or exposed plants or plant parts within the past 2 years;

(3) The grove producing the fruit has been found free of citrus canker on two surveys, which must be conducted as follows:

(i) Between one year and 90 days before harvest begins, an inspector must: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(ii) No more than 90 days before harvest begins, an inspector must walk through the grove and examine: all trees on either side of the first middle (between the first two rows) and every fourth middle thereafter throughout the grove; and at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and

(iii) At least one of the two surveys must be conducted between 4 to 12 weeks after a period of high temperatures and frequent rainfall likely to cause a flush of growth on the trees to be inspected;

(4) The grove producing the fruit is at least one-half mile from any property that has contained infested or exposed plants or plant parts during the past 2 years;

(5) Within one-half to 5 miles of the grove producing the fruit, the following plants have been destroyed:

(i) All infested plants; and

(ii) Any exposed plants at high risk for developing citrus canker. Identification of plants at high risk for developing citrus canker will be based on an evaluation all of the circumstances related to their exposure, including, but not limited to, the following:

(A) The stage of maturity of the exposed plants at the time of exposure;

(B) The size and degree of infestation to which the plants were exposed;

(C) The proximity of the exposed plants to the infested plants at the time of exposures;

(D) The length of time the plants were exposed to the infestation; and

(E) The strain of the bacterium to which the plants were exposed;

(6) During the past 2 years, any shipments of regulated plants received by the grove producing the fruit have come only from nurseries found free of citrus canker on three surveys conducted by an inspector approximately 30 days apart and not more than 90 days before each shipment, and every regulated plant in the nursery must be examined on each survey. In addition, all regulated plants at all nurseries in Florida that contain regulated plants must be examined by an inspector approximately every 30 days;

(7) Properties within 5 miles of the grove producing the fruit were surveyed and found free of citrus canker by an inspector at least one time during the past year as follows:

(i) All properties that contain 10 or more regulated plants and that are within 5 milies of the grove;

(ii) All properties that contain one to nine regulated plants and that are within one-half mile of the grove; and

(iii) Twenty percent of the properties that contain one to nine regulated plants and that are within one-half to 5 miles of the grove. The 20-percent sample must be distributed as evenly as possible over the area, with different samples inspected each year in a 5-year inspection cycle;

(8) All personnel, vehicles, and equipment are treated in accordance with § 301.75–12 (c) and (d) of this subpart upon entering the grove producing the fruit;

(9) The identity of the fruit is maintained during picking, hauling to the packing house, and packing;

(10) The fruit is treated in accordance with § 301.75–12(a) of this subpart and then waxed;

(11) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(12) The fruit is packed in containers marked with a United States Department of Agriculture stamp that says "Certified under all applicable Federal or State cooperative domestic plant quarantines";

(13) The fruit is to be moved under any additional emergency conditions that may be imposed by the Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(14) The fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

Proposed Changes

We propose to continue to require that properties surrounding a producing grove be free from the form of citrus canker caused by the Asiatic strains, but not necessarily from the form of citrus canker caused by the Florida nursery strains. Thus, the grove producing the fruit must be at least one-half mile from any property that has contained plants

or plant parts during the past 2 years that were infested with or exposed to the Asiatic strains; and, within one-half to 5 miles of the grove producing the fruit, all plants infested with the Asiatic strains and all exposed plants at high risk for developing the form of citrus canker caused by the Asiatic strains must have been destroyed. These requirements provide additional assurance that fruit moved interstate with a certificate have not been exposed to the Asiatic strains, which can infect mature trees and fruit and lead to extensive economic losses in commercial citrus-producing areas.

However, because we have never found a primary infestation caused by the Florida nursery strains in any commercial grove, similar requirements do not appear necessary to prevent the interstate spread of the form of citrus canker caused by the Florida nursery strains. If the grove producing fruit for interstate movement with a certificate has not contained any plants or plant parts during the past 2 years that were infested with or exposed to the Florida nursery strains, and if the grove has been adequately surveyed and found free of this disease, it is highly unlikely that fruit produced in the grove would be infested with the Florida nursery strains. The presence on surrounding properties of plants or plant parts infested with or exposed to the Florida nursery strains could result, at most, in possible surface contamination of the fruit. Treating and waxing of the fruit would render these surface bacteria incapable of infecting susceptible plants. Therefore, we propose to remove the requirement that properties surrounding a producing grove be free from the form of citrus canker caused by the Florida nursery strains.

To clarify that groves producing fruit for interstate movement with a certificate must continue to be free of all strains of the bacterium that causes citrus canker, we propose to specify "citrus canker (caused by any strain)" in applicable provisions. Thus, the grove producing the fruit must not have contained any plants or plant parts, during the past 2 years, that were infested with or exposed to citrus canker (caused by any strain); the grove producing the fruit must have been found free of citrus canker (caused by any strain) on two surveys; and during the past 2 years, any shipments of regulated plants received by the grove producing the fruit must have come only from nurseries found free of citrus canker (caused by any strain) on the specified surveys.

We also propose to discontinue requiring surveys of properties within 5 miles of a producing grove. Records kept by grove owners and nursery owners have provided satisfactory information on the location of exposed and potentially infested plants. These records would allow inspectors to determine whether properties within 5 miles of a producing grove meet our requirements.

In addition, we propose to change the procedure for the first grove survey by requiring that it be conducted between May 1 and December 31, inclusive, during the year before harvest and not less than 90 days before harvest begins. The period between May 1 and December 31, inclusive, is the most likely time of year for outdoor plants to express symptoms of citrus canker. Furthermore, because weather conditions by this time of year would have produced at least one flush of growth on the trees to be inspected, it does not appear necessary to retain the separate requirement that either the first or second grove survey must be conducted 4–12 weeks after weather likely to cause a flush of growth on the trees. Therefore, we propose to remove this requirement.

The prescribed surveys are the minimum level of inspection that must be done; more intensive surveys would be acceptable.

Finally, we propose to discontinue requiring the treatment of personnel, vehicles, and equipment entering the grove. This requirement does not appear to be necessary outside the area of Florida where primary infestations caused by the Asiatic strains have occurred within the past 2 years. Although we know that the Asiatic strains are capable of being spread by personnel, vehicles, and equipment entering a grove after being on a property infested with this form of citrus canker, there is no evidence that bacteria of the Florida nursery strains are spread in this manner. Moreover, there are no groves or residential properties known to be infested with bacteria of the Florida nursery strains.

Other requirements pertaining to the interstate movement of regulated fruit with a certificate would remain the same.

Limited Permits for the Interstate Movement of Regulated Fruit

Current Requirements

At present, regulated fruit may be moved interstate with a limited permit, from any area of Florida, to any area of the United States, *except* commercial citrus-producing areas, if the following conditions are met:

(1) The grove producing the fruit has not contained any infested plants or plant parts within the past year;

(2) In the grove producing the fruit, any exposed plants at high risk for developing citrus canker have been destroyed. Identification of plants at high risk for developing citrus canker will be based on an evaluation of all the circumstances related to their exposure, including, but not limited to, the following:

(i) The stage of maturity of the exposed plants at the time of exposure;

(ii) The size and degree of infestation to which the plants were exposed;

(iii) The proximity of the exposed plants to the infested plants at the time of exposure;

(iv) The length of time the plants were exposed to the infestation; and

(v) The strain of the bacterium to which the plants were exposed;

(3) The grove producing the fruit has been found free of citrus canker on surveys, which must be conducted as follows:

(i) For groves of 10 or more regulated trees, an inspector must:

(*A*) Between one year and 90 days before harvest begins: examine all trees on the perimeter of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(*B*) No more than 90 days before harvest begins: Examine all trees in the outer two rows of the grove while driving by the trees at a speed of not more than 2 m.p.h.; examine, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations in every 10 acres of the grove, or, if the grove is less than 10 acres, examine, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations:

(*C*) At least one of the two surveys must be conducted 4 to 12 weeks after a period of high temperatures and frequent rainfall likely to cause a flush of growth on the trees to be inspected;

(ii) For groves of fewer than 10 regulated trees, an inspector must walk through the grove and examine every tree no more than 30 days before the beginning of harvest;

(4) The fruit is treated in accordance with § 301.75–12(a) of this subpart;

(5) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(6) The fruit is to be moved under any additional emergency conditions that may be imposed by the Administrator under the Federal Plant Pest Act to prevent the spread of citrus canker; and

(7) The fruit is eligible for movement under all other federal domestic plant quarantines and regulations applicable to the fruit.

(8) Determines that fruit harvested from a grove of fewer than 10 trees is to be moved interstate directly to a household, with the intent that the fruit be consumed at, or by members of, that household.

Proposed Changes

To clarify that groves producing fruit for interstate movement with a limited permit must continue to be free of all strains of the bacterium that causes citrus canker, we propose to specify "citrus canker (caused by any strain)" in applicable provisions. Thus, during the past 1 year, the grove producing the fruit must not have contained any plants or plant parts that were infested with citrus canker (caused by any strain); all exposed plants in the grove that are at high risk for development citrus canker (caused by any strain) must have been destroyed; and the grove producing the fruit must have been surveyed and found free of citrus canker (caused by any strain).

For groves of 10 or more regulated trees, we propose to add a requirement that, during the past 1 year, any shipments of regulated plants received by the grove producing the fruit must have come only from nurseries found free of citrus canker (caused by any strain). The nurseries would have to be found free of citrus canker on three surveys conducted by an inspector approximately 30 days apart and not more than 90 days before each shipment. Every regulated plant in the nursery would have to be examined on each survey. This requirement, which already applies to groves producing fruit for interstate movement with a certificate, would help ensure that groves producing fruit for interstate movement with a limited permit are kept free of plants that may be infested with or exposed to citrus canker.

We propose to require only one survey of a grove of 10 or more regulated trees if the grove is outside the area of Florida where primary infestations caused by the Asiatic strains have occurred. The survey would have to be conducted in the manner now prescribed for the initial grove survey and between May 1 and December 1, inclusive, during the year before harvest. This period is the most likely time of year for outdoor plants to express symptoms of citrus canker. Furthermore, because weather conditions by this time of year would have produced at least one flush of growth on the trees to be inspected, it does not appear necessary to retain the separate requirement that the grove must be surveyed at least once within 4–12 weeks after weather likely to cause a flush of growth on the trees. Therefore, we propose to remove this requirement. If a grove is outside the area of Florida where primary infestations caused by the Asiatic strains have occurred, is found free of citrus canker on the single survey proposed, and meets the other requirements pertaining to groves, it is very unlikely to yield fruit that would present a risk of spreading citrus canker interstate.

We propose to continue to require two surveys of a grove of 10 or more trees if the grove is located within the area of Florida where a primary infestation caused by the Asiatic strains has occurred. However, we propose to require that the first survey be conducted between May 1 and December 31, inclusive, during the year before harvest and not less than 90 days before harvest begins. We would continue to require that the second survey be conducted no more than 90 days before harvest begins. Survey procedures in each case would remain unchanged. As explained above, the proposal to conduct the first survey between May 1 and December 31, inclusive, rather than between 1 year and 90 days before harvest begins, is based on this time of year being most favorable for detection of citrus canker. Again, and for the reasons given above, we propose to remove the requirement that at least one of the two surveys be conducted within 4–12 weeks after weather likely to cause a flush of growth on the trees.

The prescribed surveys are the minimum level of inspection that must be done; more intensive surveys would be acceptable.

In addition, we propose to prohibit the interstate movement of regulated fruit produced in groves that are within one-half mile of any property where a primary infestation caused by the Asiatic strains has occurred within the past 2 years. This prohibition would apply to any size grove. Practically, however, it would affect only those groves within the area of Florida where there have been primary infestations caused by the Asiatic strains, since groves outside this area are more than one-half mile from any property where a primary infestation caused by the Asiatic strains has occurred. This prohibition appears necessary to prevent the interstate spread of citrus canker.

We propose to allow fruit produced in a grove of 10 or more regulated trees to be treated with soap and water rather than with chlorine or sodium o-phenyl phenate (SOPP) if the grove is outside the area of Florida where primary infestations caused by the Asiatic strains have occurred. Specifically, this fruit would have to be thoroughly wetted and brush scrubbed for one minute in a solution of water and soap, or water and detergent, sufficient to cause a visible foaming action. This treatment would be effective in reducing surface bacteria, if any were present on the fruit, to the extent that the fruit would present a negligible risk of spreading citrus canker if moved interstate to parts of the United States that are not commercial citrus-producing areas. Fruit produced in the area of Florida where there has been a primary infestation caused by the Asiatic strains would not be eligible for interstate movement unless treated with chlorine or SOPP.

We propose to stop requiring treatment of fruit produced in groves of fewer than 10 trees if the grove is outside the area of Florida where a primary infestation caused by the Asiatic strains has occurred. These groves must be inspected, tree by tree, within 30 days of harvest. With only a few trees being individually examined, inspectors are able to look at the fruit itself, the actual commodity to be shipped. Fruit found free of citrus canker on this survey could, at most, have only very low levels of bacteria on its surface. Most growers with groves of fewer than 10 trees wash fruit before shipping it, which would make the bacteria count even lower. Even without the washing, however, any surface bacteria present would not be likely to survive long. Given that this fruit may not be sold in commercial channels, but must be moved interstate directly to a household, there would be almost no risk of the fruit spreading citrus canker interstate.

Treatment with chlorine or SOPP would continue to be required for fruit produced in groves within the area of Florida where a primary infestation caused by the Asiatic strains has occurred.

Also, we propose to require all personnel, vehicles, and equipment to be treated upon entering any grove of 10 or more regulated trees within the area of Florida where there has been a primary infestation caused by the Asiatic strains. Several infestations caused by the Asiatic strains have been traced to contaminated vehicles and equipment, and the form of citrus canker caused by

these strains can be spread by people who have handled contaminated material. Therefore, we believe this requirement is necessary to prevent new infestations of citrus canker caused by Asiatic strains.

Other requirements pertaining to the interstate movement of fruit with a limited permit would remain the same.

Fruit Treatments

We have already discussed our proposal to allow an alternative treatment for certain fruit. (See the discussion under "Limited Permits for the Interstate Movement of Regulated Fruit".)

We also propose to specify that the 200 ppm chlorine solution prescribed as a treatment for fruit, seed, and vehicles and equipment is a 200 ppm solution of sodium hypochlorite. Sodium hypochlorite is the active ingredient in the chlorine solution labeled for this use.

In addition, we propose to require that fruit treatments be applied either at a facility owned by a person operating under a compliance agreement with Plant Protection and Quarantine or in the presence of an inspector. This requirement is necessary to ensure that fruit is treated as required before being moved interstate.

Limited Permits for Interstate Movement of Calamondin and Kumquat Plants

We propose to relieve some restrictions on the interstate movement of certain calamondin and kumquat plants from Florida and to impose other restrictions.

When the regulations were established in 1984, they did not allow the interstate movement of plants from Florida, except with a permit for scientific or experimental purposes.

In March 1987, however, based on research and field observations showing calamondin and kumquat plants to be highly resistant to citrus canker, we amended the regulations (52 FR 7562–7564, Docket No. 86–361) to allow the interstate movement of these plants, under certain conditions, to areas of the United States that are not commercial citrus-producing areas.

The regulations distinguish between calamondin and kumquat plants that are "greenhouse-grown" and those that are "container-grown." Under § 301.75–7(f), "greenhouse-grown" calamondin nursery plants that are individually sealed in plastic bags before leaving the nursery may be moved interstate with a limited permit to all areas of the United States except American Samoa, Arizona, California, Hawaii, Louisiana, Puerto Rico, Texas, and the Virgin Islands of the United States. Under § 301.75–7(g), "container-grown" calamondin and kumquat nursery plants may be moved interstate with a limited permit only to that area of the United States east of the Mississippi River and north of an imaginary line formed by the southernmost borders of Illinois, Indiana, Ohio, Pennsylvania, and New Jersey.

Proposed Changes

(1) We propose to eliminate the distinction between "greenhouse-grown" and "container-grown" plants and to allow all calamondin and kumquat plants that have been grown entirely from seeds or cuttings to be moved interstate to all areas of the United States except commercial citrus-producing areas. These calamondin and kumquat plants would be referred to as "own-root-only" plants.

In the current regulations, "greenhouse-grown" calamondin plants refer to calamondin plants that are grown in sterile medium on raised benches in greenhouses. These are own-root-only plants. "Container-grown" calamondin and kumquat plants are plants that are grown outdoors and that may be own-root-only or budded or grafted to other varieties of rootstock. The different rules for greenhouse-grown and container-grown plants were established as an added precaution against the spread of citrus canker, based on the premise that measures to control and monitor citrus canker are less effective in open fields than in greenhouses. However, research and observations made in the field since these rules were established have confirmed that all own-root-only calamondin and kumquat plants, including field-grown plants, are highly resistant to citrus canker. (For further information, contact Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.)

(2) As noted above, calamondin and kumquat plants may be budded or grafted onto other varieties of rootstock. Because the rootstock may be a variety susceptible to citrus canker, and because it is impossible to determine visually what type of rootstock has been used, we propose to prohibit the interstate movement from quarantined areas of calamondin or kumquat plants that have been budded or grafted, regardless of the variety of rootstock.

(3) We propose to clarify our requirements concerning attached fruit by specifying that calamondin and kumquat plants may be moved interstate with or without fruit attached.

Calamondin and kumquat plants with attached fruit are no more susceptible to citrus canker than calamondin and kumquat plants without fruit. Therefore, any calamondin or kumquat plants that otherwise qualify for interstate movement under our regulations would present an extremely remote chance of spreading citrus canker through infected fruit. The current provision stating that "greenhouse-grown" calamondin plants "will have no fruit attached" is intended to ensure that plants moved interstate as "individually packaged calamondin nursery plants" are the small, immature plants that current § 301.75–7(f) is intended to cover. There is no similar restriction for container-grown calamondin or kumquat nursery plants, which are valued as ornamentals because of their fruit. Under our proposal, plants with or without attached fruit would be handled in the same manner, and attached fruit would require no special handling or treatment beyond that required for the plants.

(4) We propose to remove the requirement that calamondin and kumquat plants must come from a nursery that has had no citrumelo or *Poncirus trifoliata* plants since May 1, 1985. This requirement was established in March 1987 as a safeguard against the spread of the form of citrus canker caused by the Florida nursery strains. At that time, we thought that citrumelo and *Poncirus trifoliata* were much more susceptible than other plants to infection by the Florida nursery strains, and that keeping citrumelo and *Poncirus trifoliata* out of nurseries was essential to preventing the spread of citrus canker. Since then, we have determined through research and observations made in the field that many other plants are as susceptible. However, we have found that, in nurseries where susceptible plants are grown, we have been able to detect citrus canker, when it was present, within 90 days and at very low levels—only a few plants out of tens of thousands, sometimes millions. Thus, it does not appear that allowing citrumelo and *Poncirus trifoliata* to be grown in nurseries with calamondin and kumquat plants would present any additional risk of spreading citrus canker interstate.

(5) We propose to allow cuttings for propagation to be taken from plants located either: (a) On the same premises; or (b) on another premises under the same ownership; or (c) at a nursery owned by another person operating under a compliance ageement in accordance with the regulations.

The regulations currently require that cuttings be taken only from plants located on the same premises. This

requirement ensures that we can locate potential sources of infection if citrus canker is detected either on the cutting or on the plant from which it was taken. However, we have determined that tracing could also be accomplished if cuttings are taken from plants located on another property under the same ownership.

In order to qualify for interstate movement with a limited permit, calamondin and kumquat plants must come from nurseries that have not received material from properties infested with or exposed to citrus canker. One of the primary ways we determine whether a nursery meets this condition is by reviewing records that the State of Florida requires nurseries to keep on the movement of plants and plant material to and from nurseries and on the location of plants within nurseries. When adequately maintained, these records would allow us to trace potential sources of infection, if necessary, even if cuttings were moved to a nursery from another property owned by the same person. We believe, therefore, that in nurseries where calamondin and kumquat plants otherwise qualify for interstate movement with a limited permit, we would have adequate means of tracing potential sources of infection, if necessary, even if cuttings were moved to the nursery from another property owned by the same person.

Nursery owners sometimes wish to move cuttings to their nursery from a nursery owned by someone else. If the nursery from which the cuttings were taken also met our requirements for moving calamondin and kumquat plants interstate with a limited permit, the cuttings would present an extremely remote risk of causing the interstate spread of citrus canker. Nurseries owned by persons operating under a compliance agreement with us in accordance with § 301.75–8 have agreed to comply with our regulations. Noncompliance would result in cancellation of the compliance agreement. Therefore, we believe that nurseries producing calamondin and kumquat plants for interstate movement may receive cuttings from another nursery owned by a person operating under a compliance agreement with us without increasing the risk of the calamondin and kumquat plants causing the interstate spread of citurs canker.

(6) We propose to require that, within the past 2 years, nurseries where the plants are grown must not have contained any plants or plant parts infested with or exposed to citrus canker (caused by any strain). Currently, the regulations state that nurseries must not have received any exposed material from any infested or exposed property. Because no time period is specified, this restriction applies to nurseries that may have received exposed material at any time in the past. In light of the comprehensive and successful nursery inspection program in Florida, we believe this restriction can be eased.

The regulations already require nurseries where regulated plants, including calamondin or kumquat plants, are grown to have three negative inspections for citrus canker. The inspections must be conducted at approximately 30-day intervals and not more than 90 days before the plants may be shipped interstate. These surveys have been conducted since 1984 at all nurseries in Florida that contain regulated plants. Our experience has been that, when citrus canker has been present in a nursery, inspectors have found the disease by the third survey, that is, within 90 days. We have found this to be an adequate inspection safeguard in connection with our requirements concerning the interstate movement of regulated fruit. Nursery plants, however, may present somewhat more risk than fruit of spreading citrus canker. Therefore, to remove even the slightest chance that exposed or infested calamondin or kumquat plants could be moved interstate, we propose to require nurseries where these plants are grown to be free of plants or plant parts infested with or exposed to citrus canker (caused by any strain) for at least 2 years before the plants may be moved interstate. We chose 2 years because this is generally considered to be the time during which citrus canker may remain dormant.

In addition to specifying 2 years, our proposal changes the word "received" to "contained" to cover any infestations that originate in a nursery. Also, the proposal requires that the nursery must not have contained any "infested," as well as "exposed" plants or plant parts. The term "infested" was inadvertently omitted from the current regulations.

(7) The regulations require calamondin and kumquat plants moved interstate to display a waterproof, boldface-type statement that the plants are not for distribution in certain areas of the United States, which are commercial citrus-producing areas.

We propose to require that the list of commercial citrus-producing areas shown on the statement include Guam and the Northern Mariana Islands, as well as American Samoa, Arizona, California, Hawaii, Louisiana, Puerto Rico, Texas, and the Virgin Islands of the United States. In accordance with the restrictions on moving regulated articles interstate with a limited permit, calamondin and kumquat plants are prohibited in all commercial citrus-producing areas of the United States. These areas are listed in § 301.75–4 of the regulations, and include Guam and the Northern Mariana Islands. These two areas were inadvertently omitted from the current list of areas required on the waterproof, boldface-type statement.

Also, we propose to require that the waterproof, boldface-type statement required on each individual package or plant also appear on shipping containers. When individual packages or plants are enclosed in shipping containers, the statement on the packages or plants is not visible. Requiring the statement to be displayed on shipping containers would help ensure that distribution restrictions are observed and enforced.

(8) We propose to prohibit the interstate movement of calamondin and kumquat plants from any area of Florida where a primary infestation caused by the Asiatic strains has occurred until 2 years after the last infested plant in that area has been destroyed. These areas are listed in current § 301.75–7(h)(2) (paragraph (b)(3) in our proposal). This prohibition is necessary because of the aggressiveness of the Asiatic strains.

(9) We propose to require that calamondin and kumquat plants, other than those sealed hermetically in plastic bags at the nursery where they were produced, be completly enclosed in containers or in compartments of vehicles during movement through Florida. This would prevent accidental surface contamination of the plants after they have left the nursery.

(10) We propose to add a definition for the term "own-root-only."

The Area of Florida Affected by the Asiatic Strains

Currently, the area of Florida where a primary infestation caused by the Asiatic strains has occurred within the past 2 years is identified as: All of Manatee, Pinellas, and Sarasota counties, and Hillsborough County south of State Road 60. Hillsborough County has never had an infestation caused by the Asiatic strains, and neither have most of Manatee, Pinellas, and Sarasota counties. When this area was originally identified, intensive walking surveys had not been completed, and the boundaries were drawn to include a fairly large buffer area around the infestations. This was necessary, until the infested area could be accurately

defined and the infestations brought under control, to ensure that fruit moved interstate to commercial citrus-producing areas of the country did not present a risk of spreading citrus canker.

Since 1986, when the Asiatic strains were first detected in this area, the number of new infestations has dropped from 266 residential properties and one grove in 1986, to 13 residential properties in 1987, to only 2 residential properties as of August 1988, and these have been confined to Anna Maria Island and a grove near the city of Palmetto (both in Manatee County). It is clear that the eradication program for the Asiatic strains is succeeding and that the affected area is relatively small. Therefore, we propose to reduce the area under special restriction because of the Asiatic strains. The proposed area would be comprised of:

(a) *Pinellas County:* South of a line formed by State Highway 694, from Redington Shores to the intersection of State Highway 694 and Interstate 92, then along Interstate 92 to the eastern shore of Old Tampa Bay;

(b) *Manatee County:* West of a line formed by Interstate 301 and Interstate 75, then along Interstate 75 to the Sarasota county line; and

(c) *Sarasota County:* The area south of the Manatee County line, west of Interstate 75, and north of State Highway 72 and County Road 789 to the beach.

This area is proposed based on the following considerations: the size and nature of the infestations; the distance that bacteria might naturally move from the site of the infestations; and the proximity of citrus groves and contiguous, residential properties on which citrus is grown and through which citrus canker could be spread by people, vehicles, and equipment (such as lawn services) moving from one property to another.

Addition of Wampi to the List of Regulated Articles.

We propose to add the species *Clausena lansium* (Lour.) Skeels (common name, wampi) to the list of regulated articles. Wampi plants in Florida have been found infected with the form of citrus canker caused by the Florida nursery strains, and, because wampi is a member of the *Rutaceae* family, which includes many known hosts of the Asiatic strains, there is good reason to believe that wampi may also be susceptible to infection by these strains as well. Adding this species to the list of regulated articles appears necessary to prevent the interstate spread of citrus canker.

Certificates for the Interstate Movement of Seed

Currently, the regulations state that seeds may be moved interstate with a certificate only if, among other things, no infestation has been found in the grove or nursery from which the seed originates.

We propose to require that the grove or nursery be free of plants or plant parts infested with or exposed to citrus canker (caused by any strain) for at least 2 years. Seed produced in a nursery or grove that has been free of plants or plant parts infested with or exposed to citrus canker for at least 2 years would present an extremely small risk of spreading this disease interstate.

Miscellaneous

Under the current regulations pertaining to interstate movement of fruit with a certificate is a provision stipulating that all regulated plants at all nurseries in the State of Florida that contain regulated plants must be examined by an inspector approximately every 30 days. These nursery inspections are important because nurseries are where we have found plants infested with the Florida nursery strains. The surveys have proven to be extremely effective in detecting citrus canker, and we have then been able to trace transplants to groves and take immediate action to protect the groves. These inspections also provide information necessary for us to determine whether regulated fruit, seed, and calamondin and kumquat plants meet requirements for interstate movement with a limited permit. Therefore, we propose to make issuance of any certificate or limited permit contingent on these inspections being conducted.

We propose to define "United States" as "all of the states of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States."

We also propose to make a number of editorial changes to improve the clarity of the regulations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulated Fruit

We have proposed several changes that would increase the amount of regulated fruit that could be eligible for interstate movement to commercial citrus-producing areas of the United States: (1) Groves producing fruit for interstate movement with a certificate would no longer have to be at least one-half mile from properties that have contained, during the past 2 years, plants or plant parts infested with or exposed to the Florida nursery strains; (2) within one-half to 5 miles of these groves, the presence of plants infested with or at high risk of developing the form of citrus canker caused by the Florida nursery strains would no longer disqualify fruit for interstate movement with a certificate; and (3) the area of Florida designated as having had primary infestations caused by the Asiatic strains would be reduced. As a result, we estimate that all but about 10,080 of Florida's 600,000 acres of fruit-bearing citrus trees could produce fruit eligible for interstate movement with a certificate, an increase of about 6 percent over the 1987–1988 shipping season. Only a relatively small amount of the regulated fruit produced on these acres would be moved interstate to commercial citrus-producing areas, however. Most regulated fruit grown in Florida is used to make juice at processing plants in the state. Less than 20 percent is consumed as fresh fruit, and much of this is consumed in the state or is exported to foreign countries. Figures from the State of Florida Department of Citrus show that in 1983–1984, the last complete season before Florida was quarantined for citrus canker, the amount of fresh fruit shipped to commercial citrus-producing areas of the United States was 4.3 percent of the fresh citrus fruit shipped to all states combined, or about 3 million ⅘ bushel cartons. Furthermore, most of the regulated fruit that could become eligible for interstate movement with a certificate if our proposed rule is adopted is now eligible for interstate movement with a limited permit.

We also have proposed several changes in survey requirements. As a result, some groves would need only one

survey rather than two, and surveys of properties within 5 miles of groves producing fruit for interstate movement with a certificate would be eliminated. In addition, the timing of some grove surveys would be changed from between 1 year and 90 days before harvest to between May 1 and December 31, inclusive, during the year before harvest. The reduction in the number of surveys would decrease the regulatory burden on state and federal offices responsible for conducting surveys of residential properties and commercial groves. Although the May through December timing proposed for some surveys would reduce the amount of time inspectors have to complete the surveys, this should not present a problem since the overall number of surveys would be greatly reduced. The proposed changes in survey requirements would have very little, if any, economic impact on persons involved in growing, handling, or shipping regulated fruit interstate, or on the amount of regulated fruit moved interstate.

We have proposed to remove the requirement that personnel, vehicles, and equipment be treated upon entering a grove producing fruit for interstate movement with a certificate. However, we have proposed to add a requirement that personnel, vehicles, and equipment be treated upon entering any grove of 10 or more regulated trees located within the area of Florida where there have been primary infestations caused by the Asiatic strains. These actions affect production expenses for those grove owners. However, the cost of disinfecting personnel, vehicles, and equipment is minor when compared to overall production expenses, and adding or removing this requirements should have little economic impact on persons producing fruit for interstate movement.

We have proposed to require that groves of 10 or more regulated trees producing fruit for interstate movement with a limited permit obtain regulated plants during the year before the interstate movement only from nurseries inspected and found free of citrus canker. This change would have little economic impact on persons moving regulated fruit interstate with a limited permit since all nurseries in the State of Florida are already being surveyed as proposed, and Florida law restricts the movement of plants from nurseries found to be infested.

We have proposed to prohibit the interstate movement of regulated fruit from any grove that is within one-half mile of any property where a primary infestation caused by the Asiatic strains has occurred within the past 2 years. This provision would apply to one commercial grove (the site of a primary infestation in Manatee County) and 24,000 residential properties. However, no fruit is being moved from these properties now because Florida law already prohibits the intrastate movement of fruit from these properties. Therefore, our proposal would have no economic impact on persons moving regulated fruit interstate.

We have proposed to allow a soap (or detergent) and water treatment for fruit produced in groves of 10 or more regulated trees located outside the area of Florida where primary infestations caused by the Asiatic strains have occurred if the fruit is to be moved interstate with a limited permit. Washing citrus fruit with soap (or detergent) and water is standard practice in packing houses. Eliminating the need for chemical treatment with chlorine or SOPP would reduce the cost of processing this fruit. However, expenses associated with fruit treatment are not a significant deterrent to the interstate movement of regulated fruit produced in commercial groves. Therefore, we do not anticipate that the change in this requirement woud have any significant economic impact on persons moving regulated fruit interstate with a limited permit.

When fruit must be treated as a condition of interstate movement, we have proposed to require that treatments be applied either in the presence of an inspector or at a facility owned by a person operating under a compliance agreement. This action would not pose any additional economic burden on persons moving regulated fruit interstate since all fruit treatments now are applied at packing houses operating under compliance agreements.

We have proposed to allow certain regulated fruit to be moved interstate without treatment to parts of the United States that are not commercial citrus-producing areas. This provision would apply only to regulated fruit produced in groves of fewer than 10 trees located outside the area of Florida where there have been primary infestations caused by the Asiatic strains. This action would reduce the cost to many small entities of moving regulated fruit interstate with a limited permit. At present, these entities take their fruit to a packing house for treatment. Often, the cost of treatment makes it too expensive for them to send the fruit to friends or relatives in other states. We anticipate that more small entities will move regulated fruit interstate as gifts to friends or relatives if treatement is not required. Other individuals and businesses would be affected, however, since regulated fruit from groves of fewer than 10 trees may be moved interstate only if it is sent directly to a household for consumption. Also, the amount of regulated fruit that would be shipped interstate in this manner would continue to be extremely small when compared to the amount of regulated fruit shipped interstate in commercial channels.

We have proposed to allow the interstate movement of regulated seed from nurseries or groves that have not contained plants or plant parts exposed to or infested with citrus canker for at least 2 years. This action would have very little economic impact on persons moving regulated seed interstate since an insignificant amount of this seed is produced in Florida for interstate movement. Furthermore, most of that is obtained from groves, which have, with few exceptions, been free of citrus canker.

Wampi

We have proposed to add the species Clausena lansium (Lour.) Skeels (common name, wampi) to the list of regulated articles. This action should have little or no economic impact on persons who move regulated articles interstate since very little wampi is grown in Florida, and at this time, we are not aware of any wampi being moved interstate.

Calamondin and Kumquat Plants

We have proposed to reduce restrictions on the interstate movement of own-root-only calamondin and kumquat plants grown outside the area of Florida where there has been a primary infestation caused by the Asiatic strains. We also have proposed to prohibit the interstate movement of grafted or budded calamondin and kumquat plants and all calamondin and kumquat plants grown in areas of Florida where a primary infestation caused by the Asiatic strains has occurred.

We are not aware of any nurseries that grow calamondin and kumquat plants in the area of Florida where a primary infestation caused by the Asiatic strains has occurred.

Approximately six nurseries produce container-grown calamondin or kumquat plants, nearly all of which are own-root-only. These plants are seasonal, specialty commodities sold as decorative house plants and for use as indoor landscaping at shopping malls, office buildings, and other establishments. Although we expect sales of the container-grown plants to

increase if this proposal is adopted, we do not expect the increased sales to have a significant economic impact on nurseries or other businesses involved in the sale of these plants. This is because calamondin and kumquat plants account for only a small percentage of these businesses' activities.

Individually packaged calamondin plants are own-root-only plants. They are sold at many gift shops and roadside fruit stands as decorative indoor house plants. Primary purchasers are tourists buying souvenirs before returning home from the quarantined area. The overwhelming majority of gift shops and roadside stands selling individually packaged calamondin plants are small entities. Sales may increase if this proposal is adopted, but the economic impact would be minor as calamondin plants are a very small part of the inventory of these small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determine that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Citrus canker, Plants (Agriculture), Plant diseases, Plant pests, Quarantine, Transportation.

Accordingly, 7 CFR Part 301 would be amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 would continue to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.75–1 would be amended by revising the definitions of "Citrus canker" and "Nursery"; by adding, in alphabetical order, definitions for "Own-root-only" and "United States"; and by removing the definition for "Container plant," as follows:

§ 301.75–1 Definitions.

* * * * *

Citrus canker. A plant disease caused by all strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye, including the Asiatic strains and the Florida nursery strains.

* * * * *

Nursery. Any premises, including greenhouses, at which plants are grown or maintained for propagation or for replanting for ornamental purposes, but not including any grove on the premises.

* * * * *

Own-root-only. Plants grown entirely from seeds or cuttings.

* * * * *

United States. All of the states of the United States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

3. In § 301.75–2, paragraph (a) would be revised to read as follows:

§ 301.75–2 Regulated articles.

(a) Plants or plant parts, including fruit and seeds, of any of the following:

All species, clones, cultivars, strains, varieties, and hybrids of the genera *Citrus* and *Fortunella*, and all clones, cultivars, strains, varieties, and hybrids of the species *Clausena lansium* and *Poncirsu trifoliata*. The most common of these are: lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliate orange, and wampi.

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§ 301.75–2 [Amended]

4. In §301.75–2, paragraph (b), "comveyance" would be revised to read "conveyance".

§ 301.75–6 [Amended]

5. In § 301.75–6, paragraph (e) would be amended by revising "§ 301.75–7(e) or § 301.75–7(f)" to read "§ 301.75–7 of this subpart".

6. Section 301.75–7 would be revised to read as follows:

§301.75–7 Certificates and limited permits.

(a) *Issuance and withdrawal.* (1) The issuance of certificates and limited permits for the interstate movement of regulated articles from Florida is contingent upon every nursery in Florida that contains regulated plants being inspected for citrus canker approximately every 30 days. The inspections must be conducted by an inspector, and every regulated plant in the nurseries must be examined.

(2) Certificates and limited permits may be issued for the interstate movement of regulated articles only by an inspector or by persons operating under a compliance agreement.

(3) Any certificate or limited permit that has been issued may be withdrawn by an inspector if the inspector determines that any of the applicable requirements of this subpart are not being met. The decision of the inspector and the reasons for the withdrawal must be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit is withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Administrator must grant or deny the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(b) *Restrictions on interstate movement of regulated articles produced in an area of Florida where a primary infestation caused by the Asiatic strains has occurred.* (1) Regulated fruit produced in any area of Florida where a primary infestation of citrus canker caused by the Asiatic strains has occurred will not be eligible for interstate movement with a certificate until 2 years after the destruction in that area of the last plant infested with citrus canker caused by the Asiatic strains.

(2) Calamondin and kumquat plants grown in any area of Florida where a primary infestation of citrus canker caused by the Asiatic strains has occurred will not be eligible for interstate movement with a limited permit until 2 years after the destruction in that area of the last plant infested with citrus canker caused by the Asiatic strains.

(3) The area of Florida where a primary infestation of citrus canker caused by the Asiatic strains has occurred is comprised of:

(i) *Pinellas County*: South of a line formed by State Highway 694, from Redington Shores to the intersection of State Highway 694 and Interstate 92, then along Interstate 92 to the eastern shore of Old Tampa Bay;

(ii) *Manatee County*: West of a line formed by Interstate 301 and Interstate 75, then along Interstate 75 to the Sarasota County line; and

(iii) *Sarasota County*: The area south of the Manatee County line, west of Interstate 75, and north of State Highway 72 and County Road 789 to the beach.

(c) *Certificates for interstate movement of seed.* A certificate will be issued for the interstate movement of regulated seed to any area of the United States, including commercial citrus-producing areas, only if all of the following conditions are met:

(1) In the grove or nursery producing the fruit from which the seed is extracted, there have been no plants or plant parts infested with or exposed to citrus canker (caused by any strain) for at least 2 years; and

(2) The seed has been treated in accordance with § 301.75–12(b) of this subpart.

(d) *Certificates for interstate movement of fruit.* A certificate will be issued for the interstate movement of regulated fruit to any area of the United States, including commercial citrus-producing areas, only if the fruit is eligible for a certificate in accordance with paragraph (b) of this section and all of the following conditions are met:

(1) The fruit is harvested from a grove of 10 or more regulated trees;

(2) The grove producing the fruit has not, within the past 2 years, contained any plants or plant parts infested with or exposed to citrus canker (caused by any strain);

(3) The grove producing the fruit has been found free of citrus canker (caused by any strain) on two surveys, conducted as follows:

(i) The first survey must have been conducted by an inspector between May 1 and December 31, inclusive, during the year before harvest, and not less than 90 days before the beginning of harvest. The inspector must have: Examined all trees on the perimeter of the grove while driving by the trees at no more than 2 m.p.h.; examined, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examined, while on foot, a minimum of four nature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, for groves less than 10 acres, examined, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location;

(ii) The second survey must have been conducted by an inspector not more than 90 days before the beginning of harvest. The inspector must have walked through the grove and examined all trees on either side of the first middle (between the first two rows) and every fourth middle thereafter, and at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated);

(4) The grove producing the fruit is at least one-half mile from any property that, within the past 2 years, has contained plants or plant parts infested with or exposed to citrus canker caused by the Asiatic strains;

(5) In the area between one-half and 5 miles from the grove producing the fruit, the following plants have been destroyed:

(i) All plants infested with citrus canker caused by the Asiatic strains; and

(ii) All exposed plants at high risk for developing the form of citrus canker caused by the Asiatic strains. Identification of expose plants at high risk for developing the form of citrus canker caused by the Asiatic strains will be based on an evaluation of all of the circumstances related to their exposure, including, but not limited to, the following:

(A) The stage of maturity of the exposed plants at the time of exposure;

(B) The size and degree of infestation to which the plants were exposed;

(C) The proximity of the exposed plants to the infested plants at the time of exposure; and

(D) The length of time the plants were exposed to the infestation;

(6) During the past 2 years, all shipments of regulated plants received by the grove producing the fruit have come only from nurseries found free of citrus canker (caused by any strain) on three surveys conducted by an inspector approximately 30 days apart and not more than 90 days before each shipment. Every regulated plant in the nursery must be examined on each survey.

(7) The identity of the fruit is maintained during picking, hauling to the packing house, and package;

(8) The fruit is treated in accordance with § 301.75–12(a) of this subpart and then waxed;

(9) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit;

(10) The fruit is packed in containers marked with a United States Department of Agriculture stamp that says "Certified under all applicable Federal or State cooperative domestic plant quarantines".

(e) *Limited permits for interstate movement of fruit.* A limited permit will be issued for the interstate movement of regulated fruit to any area of the United States, except commercial citrus-producing areas, only if the following conditions are met:

(1) The grove producing the fruit has not, within the past 1 year, contained any plants or plant parts infested with citrus canker (caused by any strain);

(2) In the grove producing the fruit, any exposed plants at high risk for developing citrus canker (caused by any strain) have been destroyed. Identification of exposed plants at high risk for developing citrus canker will be based on an evaluation of all of the circumstances related to their exposure, including, but not limited to, the following:

(i) The stage of maturity of the exposed plants at the time of exposure;

(ii) The size and degree of infestation to which the plants were exposed;

(iii) The proximity of the exposed plants to the infested plants at the time of exposure;

(iv) The length of time the plants were exposed to the infestation; and

(v) The strain of the bacterium to which the plants were exposed;

(3) The grove producing the fruit is at least one-half mile from any property where a primary infestation of citrus canker caused by the Asiatic strains has occurred within the past 2 years;

(4) The grove producing the fruit has been surveyed and found free of citrus canker (caused by any strain) as follows:

(i) Groves of 10 or more trees located outside the area designated in paragraph (b) of this section as having had a primary infestation of citrus canker caused by the Asiatic strains have been surveyed one time. The survey must have been conducted by an inspector between May 1 and December 31, inclusive, during the year before the beginning of harvest. The inspector must have examined all trees on the perimeter of the grove while driving at no more than 2 m.p.h.; examined, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examined, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location in every 10 acres of the grove, or, for groves less than 10 acres, examined, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location;

(ii) Groves of 10 or more trees located within the area designated in paragraph (b) of this section as having had a primary infestation of citrus canker caused by the Asiatic strains must have been surveyed two times, as follows:

(A) The first survey must have been conducted by an inspector between May 1 and December 31, inclusive, during the year before harvest, and not less than 90 days before the beginning of harvest. The inspector must have: examined all trees on the perimeter of the grove while driving by the trees at no more than 2 m.p.h.; examined, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examined, while on foot, a minimum of four mature trees or eight young trees in one randomly selecteed location in every 10 acres of the grove, or, for groves of less than 10 acres, examined, while on foot, a minimum of four mature trees or eight young trees in one randomly selected location; and

(B) The second survey must have been conducted by an inspector not more than 90 days before the beginning of harvest. The inspector must have examined all trees in the outer two rows of the grove while driving by the trees at no more than 2 m.p.h.; examined, while on foot, at least 12 trees in high-risk areas of the grove (such as the grove entrance, the perimeter of the grove, and areas where the movement of people and equipment is concentrated); and examined, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations in every 10 acres of the grove, or, for groves less than 10 acres, examined, while on foot, a minimum of four mature trees or eight young trees in each of two randomly selected locations:

(iii) Groves of fewer than 10 regulated trees, whether located within or outside the area designated in paragraph (b) of this section as having had a primary infestation of citrus canker caused by the Asiatic strains, must have been surveyed one time. An inspector must walk through the grove and examine every tree no more than 30 days before the beginning of harvest;

(5) If the grove producing the fruit has 10 or more regulated trees, all shipments of regulated plants received by the grove during the past 1 year have come only from nurseries found free of citrus canker (caused by any strain) on three surveys conducted by an inspector approximately 30 days apart and not more than 90 days before each shipment. Every regulated plant in the nursery must have been examined on each survey;

(6) If the grove producing the fruit has 10 or more regulated trees, and is located within the area designated in paragraph (b) of this section as having a primary infestation of citrus canker caused by Asiatic strains, all personnel, vehicles, and equipment are treated in accordance with § 301.75–12 (c) and (d) of this subpart upon entering the grove;

(7) If the grove producing the fruit has 10 or more regulated trees, or if the grove, regardless of size, is located within the area designated in paragraph (b) of this section as having had a primary infestation of critrus canker caused by the Asiatic strains, the fruit is treated in accordance with § 301.75–12(a) of this subpart. No treatment is required for fruit produced in groves of fewer than 10 regulated trees located outside the area designated in paragraph (b) of this section as having had a primary infestation of citrus canker caused by the Asiatic strains;

(8) The fruit is free of leaves, twigs, and other plant litter, except stems less than one-inch long that are attached to the fruit; and

(9) Fruit produced in a grove of fewer than 10 regulated trees is to be moved interstate directly to a household, with the intent that the fruit be consumed at, or by members of, that household.

(f) *Limited permits for interstate movement of own-root-only calamondin and kumquat plants.* A limited permit will be issued for the interstate movement of own-root-only calamondin and kumquat plants, with or without fruit attached, to any area of the United States except commercial citrus-producing areas, only if the plants are eligible for a limited permit in accordance with paragraph (b) of this section and all of the following conditions are met:

(1) The plants have always been located on the premises from which they will be moved interstate:

(2) Cuttings used to propagate the plants were taken only from plants located on the same premises; or on other premises under the same ownership; or at a nursery owned by another person operating under a compliance agreement;

(3) The nursery where the plants were grown has not, within the past 2 years, contained any plants or plant parts infested with or exposed to citrus canker (caused by any strain);

(4) In the nursery where the plants were grown, all regulated plants were examined by an inspector and found free of citrus canker (caused by any strain) on three surveys conducted approximately 30 days apart and within the past 90 days;

(5) Except for plants hermetically sealed in plastic bags before leaving the nursery, the plants are completely enclosed in containers or in compartments of vehicles during movement through Florida; and

(6) A statement that the plants are not for distribution within American Samoa, Arizona, California, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the Virgin Islands of the United States is displayed in waterproof, boldface type on the package of each plant hermetically sealed in plastic, or on durable, waterproof tags attached to all other plants, and on the outside of all shipping containers used for these plants.

7. In § 301.75–12, paragraph (a) would be revised to read as follows:

§ 301.75–12 Treatments.

(a) *Fruit.* Fruit for which treatment is required by this subpart must be treated in accordance with this paragraph in the presence of an inspector or at a facility whose owner operates under a compliance agreement.

(1) Fruit produced in groves located within the area of Florida designated in § 301.75–7(b) of this subpart as having had primary infestations of citrus canker caused by the Asiatic strains: Thorough wetting with a solution containing 200 parts per million sodium hypochlorite for at least 2 minutes; or thorough wetting with a solution containing sodium o-phenyl phenate (SOPP) at a concentration of 1.86 to 2 percent of the total solution for 45 seconds if the solution has sufficient soap or detergent to cause a visible foaming action or for 1 minute if the solution does not contain sufficient soap or detergent to cause a visible foaming action.

Note: Sodium hypochlorite and SOPP must be applied in accordance with label directions.

(2) Fruit produced in groves of 10 or more regulated trees located outside the area of Florida designated in § 301.75–7(b) of this subpart as having had primary infestations caused by the Asiatic strains: Treatment as prescribed in paragraph (a)(1) of this section; or thorough wetting and brush scrubbing for one minute with a solution of water and soap (or water and detergent) sufficient to cause a visable foaming action.

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§ 301.75–12—[Amended]

8. In § 301.75–12, paragraph (b) would be amended by revising "active chlorine" to read "sodium hypochlorite".

9. In § 301.75–12, paragraph (d) (1) would be amended by revising "chlorine solution" to read "solution of sodium hypochlorite".

Done at Washington, DC, this 19th day of October 1988.

W.F. Helms,
Acting Administrator, Animal and Plant Health Inspection Service.

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