

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. 00–035–2]

RIN 0579–AB19

Plum Pox Compensation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the plum pox compensation regulations to provide additional compensation to affected growers, under certain conditions. We are proposing to provide additional compensation to growers who have already been paid under the existing regulations, which provide for payments based on a 3-year fallow period, but who are prohibited from replanting regulated articles for a total of more than 3 years due to additional detections of plum pox in areas already under quarantine. Such growers would be paid compensation for up to 2 additional years. We are also proposing to provide additional compensation to growers who are direct marketers of their fruit, and to provide compensation for growers who have had trees that were less than 1 year old destroyed. We are proposing these actions in response to issues that have surfaced during our 2 years of experience in managing the plum pox quarantine and paying compensation to affected growers. These proposed changes are necessary to provide adequate compensation to persons affected by the plum pox quarantine and eradication efforts associated with the quarantine.

DATES: We will consider all comments that we receive on or before December 15, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and

three copies) to: Docket No. 00–035–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 00–035–2. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and “Docket No. 00–035–2” on the subject line.

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

Plum pox is an extremely serious viral disease of plants that can affect many *Prunus* (stone fruit) species, including plum, peach, apricot, almond, nectarine, and sweet and tart cherry. A number of wild and ornamental *Prunus* species may also be susceptible to this disease. Infection eventually results in severely reduced fruit production, and the fruit that is produced is often misshapen and blemished. In Europe, plum pox has been present for a number of years and is considered to be the most serious disease affecting susceptible *Prunus* varieties. Plum pox virus is transmitted locally by a variety of aphid species, as well as by budding and grafting with infected plant material, and spreads over longer distances through movement of infected budwood, nursery stock, and other plant parts.

There are no known effective methods for treating trees or other plant material infected with plum pox, nor are there any known effective prophylactic treatments to prevent the disease from occurring in trees exposed to the disease due to their proximity to infected trees or other plant material. Without effective treatments, the only option for preventing the spread of the disease is the destruction of infected and exposed trees and other plant material.

On March 2, 2000, as a result of the detection of plum pox in Adams County, PA, the Secretary of Agriculture published in the **Federal Register** (65 FR 11280–11281, Docket No. 00–001–1) a declaration of extraordinary emergency regarding plum pox that was effective on January 20, 2000. The declaration of extraordinary emergency was followed by an interim rule published in the **Federal Register** on June 2, 2000 (65 FR 35261–35265, Docket No. 00–034–1), that established regulations quarantining a portion of Adams County, PA, due to the detection of plum pox in that region¹ and restricting the interstate movement of certain articles from the quarantined area that present a risk of transmitting plum pox (e.g., trees, seedlings, root stock, budwood, branches, twigs, and leaves of susceptible *Prunus* spp.). That interim rule, which established a new “Subpart-Plum Pox” (7 CFR 301.74 through 301.74–4), was promulgated on an emergency basis to prevent the spread of plum pox to noninfested areas of the United States.

On September 14, 2000, we published in the **Federal Register** (65 FR 55431–55436, Docket No. 00–035–1) another interim rule that established regulations to provide for the payment of compensation to owners of commercial stone fruit orchards and fruit tree nurseries who had stone fruit trees or nursery stock destroyed in order to control plum pox. Those compensation provisions, which were added to “Subpart-Plum Pox” as a new § 301.74–5, were necessary to reduce the economic effect of the plum pox quarantine on affected commercial growers and nursery owners, thus ensuring the continued cooperation of growers and nursery owners with the

¹ The particular strain of plum pox found in the quarantined area in Adams County, PA—the “D” strain—is not known to be transmitted by seed or fruit, and is not known to infect cherry.