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**U.S. Department of Agriculture  
Office of Inspector General**

# **USDA Payments for 2005 Citrus Canker Tree Losses**

**Audit Report 50099-46-At  
March 2011**

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United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



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AUDIT  
NUMBER: 50099-46-At

TO: Cindy J. Smith  
Administrator  
Animal and Plant Health Inspection Service

William J. Murphy  
Administrator  
Risk Management Agency

ATTN: Joanne L. Munno  
Deputy Administrator for Marketing  
Regulatory Program  
Animal and Plant Health Inspection Service

Michael Hand  
Deputy Administrator  
for Compliance  
Risk Management Agency

FROM: Gil H. Harden **/s/**  
Assistant Inspector General  
for Audit

SUBJECT: USDA Payments for 2005 Citrus Canker Tree Losses

This report presents the results of our audit of the Department of Agriculture's payments for 2005 citrus canker tree losses. Your written response to the official draft report, dated March 7, 2011, is attached, with excerpts and the Office of Inspector General's (OIG) position incorporated into the Finding and Recommendation sections of the report, where applicable.

We agree with management decision on Recommendations 1, 3, and 4 of the report. However, we are unable to accept management decision on Recommendation 2. Documentation and/or actions needed to reach management decision for this recommendation is described in the OIG Position section of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken or planned, and timeframes for implementing the

recommendation for which management decision has not been reached. Please note that the regulation requires management decision to be reached on all recommendations within 6 months from report issuance, and final action to be taken within 1 year of each management decision to prevent being listed in the Department's annual Performance and Accountability Report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions.

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# USDA Payments for 2005 Citrus Canker Losses

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## Executive Summary

In 1995, citrus canker—a disease that affects citrus trees and fresh citrus fruit—was identified in south Florida, and began affecting both residential properties and commercial groves. The Federal Government, along with the State of Florida Department of Agriculture and Consumer Services, implemented measures to eradicate the disease by removing infected trees and nearby trees that may have been exposed.<sup>1</sup> These eradication measures affected many Floridians who depend on citrus for their livelihood. In response, the Department of Agriculture (USDA) implemented three different programs to assist affected growers. During 2001, the Animal and Plant Health Inspection Service (APHIS) implemented the Citrus Canker Lost Production Program and Citrus Canker Tree Replacement Program to compensate eligible Florida commercial citrus growers for lost production and tree losses. Meanwhile the Risk Management Agency (RMA) modified one of its insurance products—the Florida Fruit Tree Pilot Crop Insurance Program—so that growers could be indemnified for citrus canker tree losses. Together, these three programs provided Florida citrus growers with significant benefits. From November 21, 2004, to November 20, 2005,<sup>2</sup> APHIS, through its two programs, made \$474 million in payments to growers, and RMA through its approved insurance providers paid growers \$100.8 million for citrus canker tree losses.

The Office of Inspector General (OIG) initiated this audit to evaluate (1) the adequacy of coordination and collaboration between APHIS and RMA with regard to citrus canker-related payments, and (2) the adequacy of the agencies' management controls to ensure that payments to citrus growers for comparable losses from citrus canker were accurately calculated to avoid duplicate and overlapping payments. As our fieldwork proceeded, we also became aware of potential problems concerning whether APHIS reported its payments to the Internal Revenue Service (IRS), so we expanded our scope to evaluate this concern. In order to accomplish our objectives, we selected and reviewed 54 producers participating in APHIS programs who had also received at least \$100,000 from RMA's 2005 Florida Fruit Tree Pilot Crop Insurance Program and who also participated in RMA's 2006 Florida Citrus Fruit Crop Insurance Program.<sup>3</sup>

We found that APHIS did not report \$290.9 million in Citrus Canker Tree Replacement Program payments to IRS from fiscal years 2001 through 2007.<sup>4</sup> APHIS officials believed that citrus canker tree replacement payments should be handled similarly to payments that the agency had made to hog producers in FY 2000. In that year, APHIS and IRS had determined that

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<sup>1</sup> Title 7 *Code of Federal Regulations* (CFR) 301.75, dated January 1, 2004, and Florida Statutes 581.184.

<sup>2</sup> The audit work was based on the RMA 2005 crop year for Florida Fruit Tree Pilot Crop Insurance Program which began November 21, 2004, and ended November 20, 2005.

<sup>3</sup> The Florida Citrus Fruit Crop Insurance Program did not make indemnity payments for lost production as a result of citrus canker. However, we were performing concurrently a review of this program (Audit Report 05099-29-At) and intended to cross-check grower-provided information across the different programs.

<sup>4</sup> APHIS properly reported to IRS Citrus Canker Lost Production Program payments, totaling \$319.7 million, made to growers during the same time period.

compensation for the hogs should not be reported. For citrus canker tree replacement payments, however, OIG consulted with IRS and determined that the trees, unlike hogs, are capital assets.<sup>5</sup> Therefore, we believe any compensation for the trees should have been reported for tax purposes. Given their belief, APHIS officials recorded citrus canker tree replacement payments for USDA's accounting records using a code that flagged these payments as non-reportable to IRS. As a result, the Government has no assurance that growers properly reported to IRS tree replacement payments which may be subject to taxes.

We also found that APHIS did not coordinate with RMA to determine the amount of indemnity payments growers already received before APHIS calculated its payments. Federal regulations required APHIS to reduce its citrus canker lost production payments by the amount of any RMA tree payments growers received.<sup>6</sup> APHIS officials stated that they did not coordinate with RMA because they did not believe growers would knowingly misrepresent the amount of the payment received from RMA. We found, however, that growers did not always provide correct information when they applied for the APHIS Citrus Canker Lost Production Program, largely due to their misunderstanding of how their RMA indemnities were paid. Growers often reported the amount on their checks, even though the amount RMA and the approved insurance providers indemnified them was more complicated.<sup>7</sup> Due to the agency's reliance on grower-provided information that was sometimes incorrect, APHIS overpaid 15 of 54 citrus growers \$633,717 and underpaid 6 growers \$486,959—for a total of \$1.1 million in erroneous payments.

## Recommendation Summary

We are recommending that APHIS and USDA work with IRS to determine what actions should be taken to resolve Citrus Canker Tree Replacement Program payments that were not reported to IRS. We are also recommending that APHIS correct the erroneous payments of \$1.1 million made to 21 citrus growers who received compensation under APHIS' program.

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<sup>5</sup> According to IRS Publication 544, Sales and Other Dispositions of Assets, almost everything a person owns and uses for personal purposes or investment is a capital asset. IRS Publication 225, Farmer's Tax Guide, defines a noncapital asset as property such as inventory and depreciable property used in a trade or business and property held for sale to customers, such as livestock, poultry, livestock products, and crops. According to IRS guide, Farmers Audit Techniques Guide – Chapter Four – Expenses, Capital vs. Reoccurring Costs, dated July 2006, crops subject to Internal Revenue Code (IRC) section 263A include crops, such as citrus crops, which have a productive period in excess of 2 years. IRC section 263A specifies uniform capitalization rules. Lastly, under the Florida Citrus Fruit Crop Provisions, RMA does not insure any citrus fruit produced by trees that have not reached the fifth growing season after being set out.

<sup>6</sup> Title 7 CFR 301.75-16(b)(2)(i), dated January 1, 2004, states, "In cases where the owner of a commercial citrus grove had obtained [Asiatic citrus canker] coverage for trees in his or her grove and received crop insurance payments following the destruction of the insured trees, the [Citrus Canker Lost Production Program payment] will be reduced by the total amount of the crop insurance payments received by the commercial citrus grove's owner for the insured trees."

<sup>7</sup> Under the Federal crop insurance program, insured producers are not required to pay upfront the premiums on their policies. Instead, premiums due to the approved insurance providers are deducted from the producers' indemnity payments if they file a loss claim; that is, the actual indemnity payment reflects a deduction taken for the premium owed by the insured.

## **Agency Response**

In its March 7, 2011, written response to the official draft report, APHIS generally expressed agreement with our findings and recommendations. We have incorporated the APHIS response in the Findings and Recommendations section of this report, along with our comments in the applicable OIG Position sections. APHIS' response to the official draft is included in its entirety at the end of this report.

## **OIG Position**

We concur with APHIS' proposed corrective actions and have accepted management decision for Recommendations 1, 3, and 4. We have provided our comments and what is required to reach management decision on Recommendation 2 in the applicable OIG Position section.

## Background & Objectives

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### Background

In 1995, Florida citrus growers began noticing that their trees were suffering from an outbreak of citrus canker. Citrus canker is a disease affecting citrus trees and fresh fruit, which can cause defoliation and other serious damage to the leaves and twigs of susceptible trees. It can also cause lesions on the fruit of infected trees, rendering the fruit unmarketable, and can cause infected fruit to drop from the trees before reaching maturity. The especially aggressive Asiatic strain of citrus canker can infect susceptible trees rapidly and lead to extensive economic losses in commercial citrus-producing areas.

In January 2000, the Florida Department of Agriculture and Consumer Services began removing all citrus trees—infected or otherwise—within a 1,900-foot radius of a citrus canker-infected tree, both in residential areas and commercial groves. Florida citrus growers were negatively affected by the destruction of not only trees that were infected, but also trees that were in close proximity to the infected trees.

In response to concerns about the economic consequences of attempting to eradicate citrus canker, Congress provided appropriated funding, and the Secretary provided funding from Section 32 funds<sup>8</sup> and the Commodity Credit Corporation that enabled the Department of Agriculture (USDA) to compensate Florida growers for their losses. The Animal and Plant Health Inspection Service (APHIS) administered two such programs: (1) the Citrus Canker Lost Production Program provided compensation to growers for the recovery of production income lost as a result of the removal of commercial citrus trees in an attempt to control citrus canker, and (2) the Citrus Canker Tree Replacement Program provided compensation to growers to replace citrus trees destroyed because of canker if the trees were removed pursuant to a public order after September 28, 1995.<sup>9</sup> In total, these two programs paid Florida growers \$474 million in benefits for trees that were ordered to be destroyed from November 21, 2004, to November 20, 2005.

Beginning with the 1996 crop year, the Risk Management Agency (RMA) was also operating a program—the Florida Fruit Tree Pilot Crop Insurance Program—that indemnified insured growers for trees that were either damaged or destroyed by cold, wind, or excess moisture. Beginning in crop year (CY) 2000, RMA modified the pilot program to include infection by or exposure to Asiatic citrus canker as an insurable cause of loss and expanded the program from 5 counties to 29 counties.<sup>10</sup> During CY 2005, RMA and approved insurance providers paid citrus growers \$100.8 million in citrus tree damages caused by Asiatic citrus canker.

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<sup>8</sup> Section 32 of the Agriculture Adjustment Act of August 24, 1935, as amended, authorizes the Secretary of Agriculture to provide assistance to farmers to restore their purchasing power.

<sup>9</sup> Growers whose trees were removed to control citrus canker pursuant to a public order between 1986 and 1990 or on or after September 28, 1995, may have been eligible to receive payments from both programs.

<sup>10</sup> Beginning with the 2008 crop year, the Florida Fruit Tree Pilot Crop Insurance Program was modified by RMA to exclude Asiatic citrus canker as an insurable cause of loss.

If a citrus grower had received crop insurance payments from the approved insurance providers, then Federal regulations required APHIS to reduce its program payments by the total amount of Florida Fruit Tree Pilot crop insurance indemnity payments that the grower had received.<sup>11</sup> Moreover, while citrus growers who either leased or owned their land could insure their citrus trees with RMA, only growers who owned their land were allowed to claim benefits from APHIS' Citrus Canker Tree Replacement and Lost Production Programs. This provision was intended to ensure that growers would not be doubly compensated for the same destroyed trees.

In January 2006, USDA declared that the citrus canker eradication program was no longer feasible because the 2004 and 2005 hurricanes had spread citrus canker so extensively.<sup>12</sup> As a result, Florida then stopped destroying citrus trees within 1,900 feet of an infected tree, and APHIS discontinued its two programs for compensating growers for losses related to citrus canker. In CY 2008, RMA no longer considered citrus canker an insurable cause of loss, which meant that growers could not receive an indemnity for trees lost due to the disease.

## **Objectives**

The objectives of the audit were to evaluate (1) the adequacy of coordination and collaboration between APHIS and RMA with regard to citrus canker-related payments, and (2) the adequacy of the agencies' management controls to ensure that payments to citrus growers for comparable losses from citrus canker were accurately calculated to avoid duplicate and overlapping payments.

As our fieldwork proceeded, we became aware of potential problems concerning whether APHIS reported its payments to the Internal Revenue Service (IRS). Accordingly, we expanded our scope to evaluate this concern.

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<sup>11</sup> Title 7 *Code of Federal Regulations* (CFR) 301.75-16(b)(2)(i), dated January 1, 2004.

<sup>12</sup> January 10, 2006, USDA letter to the Florida Agriculture Commissioner.

## **Section 1: IRS Reporting of Citrus Canker Tree Replacement Payments**

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### **Finding 1: APHIS Did Not Report Citrus Canker Tree Replacement Payments to IRS**

APHIS did not report \$290.9 million in Citrus Canker Tree Replacement Program payments to IRS from fiscal years (FY) 2001 through 2007. APHIS officials explained that, in FY 2000, the agency had issued similar payments for hogs and that they had worked with IRS to determine that those payments were not reportable. Based on their experience, APHIS officials concluded that citrus canker tree replacement payments were similar and that they, too, should not be reported. Therefore, APHIS recorded citrus canker tree replacement payments for USDA's internal accounting purposes using a code that flagged these payments as non-reportable. However, in consultation with IRS, the Office of Inspector General (OIG) has determined that citrus canker tree replacement payments were compensation for a capital asset,<sup>13</sup> and that they therefore should have been reported to IRS for tax purposes. As a result, the Government has no assurance that growers properly reported to IRS tree replacement payments which may be subject to taxes.

All Federal agencies are required to report payments of \$600 or more made in any taxable year to IRS.<sup>14</sup> Departmental regulations further require that USDA agencies must determine which payments should be reported to IRS and report them accordingly.<sup>15</sup>

In order to report payments to IRS, USDA uses a Departmentwide financial reporting system that interacts with the various accounting systems used by the Department's agencies. When the agencies issue payments, they must select the correct budget object classification code, indicating the type of payment and whether the payment needs to be reported to IRS. Certain codes have pre-assigned flags that the Department uses to determine whether the Miscellaneous Income Form 1099-MISC will be issued to report payments over \$600 for a particular taxpayer identification number.

When APHIS began issuing citrus canker payments for tree replacement and lost production, officials decided that, since citrus canker tree replacement payments were similar to the hog payments APHIS issued in FY 2000, they did not have to be reported for tax purposes. They therefore chose budget code 4221, "regular indemnity," which had a pre-assigned flag setting to not generate a Form 1099. Accordingly, none of these payments were reported to IRS.

APHIS officials were acting on incomplete information, as Federal crop insurance indemnity payments made to growers are reported to IRS. We verified with the approved insurance

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<sup>13</sup> See footnote 5 on page 2.

<sup>14</sup> Chapter 61, subchapter A, part III, subpart B of the IRC, 26 United States Code, section 6041-6051N.

<sup>15</sup> Departmental Regulation 2130-004, dated November 27, 2006, supersedes Departmental Regulation 2130-4, dated March 4, 1997.

providers that, when growers receive an indemnity, the approved insurance providers report these indemnity payments to IRS annually.<sup>16</sup>

For clarification the OIG contacted the Director of the Accounting Policy and Consolidated Reporting Division of the Office of the Chief Financial Officer (OCFO) to further discuss the budget code and to confirm whether the citrus canker tree replacement payments should have been reported to IRS. OCFO referred the question to APHIS. APHIS officials responded that they had researched standard operating procedures, Federal regulations, and IRS procedures, but did not find any specific reference to citrus canker tree replacement payments and Form 1099 reporting.

OIG contacted IRS to determine whether APHIS should have reported the payments for tree replacement payments. IRS responded that, “[t]he money was for replacing the trees (a capital asset). These citrus trees are subject to capitalization rules and have a tax basis. The treatment is similar to a casualty loss. This would then appear to give the owner/taxpayer ordinary income through the capital gain or loss.” According to this response, APHIS should have reported the payments to IRS and IRS could then determine if the payments were taxable, whether the grower used the money to replace trees or not.

To verify whether the growers had used the money to replace trees or not, which was the intended purpose of the compensation, we conducted onsite visits to a number of growers’ sites. Our onsite reviews of four growers<sup>17</sup> who received compensation as a result of the 2005 hurricanes in Florida found that the growers had sold the land or otherwise not replaced citrus trees more than 2 years after receiving their payments and 3 years<sup>18</sup> after the trees were destroyed.

- Grower A had not replaced any citrus trees on 2,887 acres, but instead sold the acres for \$20.2 million<sup>19</sup> even though he had received \$8.82 million in citrus canker tree replacement payments for the same acreage.
- Grower B had not replanted the 4,550 acres where citrus trees were destroyed, even though he had received \$14.25 million in citrus canker tree replacement payments.
- Grower C had not replanted the 3,311 acres where citrus trees were destroyed, even though he had received \$8.83 million in citrus canker tree replacement payments.
- Grower D had not replanted more than 270 acres where citrus trees were destroyed after receiving \$730,000 in citrus canker tree replacement payments.

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<sup>16</sup> Under the Standard Reinsurance Agreement with the Federal Crop Insurance Corporation, the approved insurance providers adjust claims in the Federal crop insurance program and pay indemnities. Therefore, they are required to report any indemnity payment to IRS.

<sup>17</sup> Growers were judgmentally selected and reviewed because they were also being reviewed in the USDA OIG audit; *Citrus Indemnity Payments Resulting from 2005 Florida Hurricanes* (05099-29-At), and received the highest citrus indemnity payments during the 2006 crop year.

<sup>18</sup> Title 7 CFR 301.75-4, dated January 1, 2004, states that any State or portion of a State where an infestation is detected will be designated as a quarantined area and will remain so until the area has been without infestation for 2 years. Growers received citrus canker tree replacement payments in 2005 and 2006 for associated trees ordered to be destroyed between November 21, 2004, and November 20, 2005.

<sup>19</sup> Grower A’s sales contract stated the price per acre at \$7,000. Thus 2,887 acres x \$7,000 = \$20.2 million.

On August 30, 2010, OIG requested that APHIS provide its official position concerning why it did not report tree replacement payments to IRS. APHIS officials explained that they determined that they had not reported tree replacement payments because, in FY 2000, they had consulted with IRS regarding other payments (in this case, relating to hogs), and were advised that the compensation was non-taxable. APHIS therefore concluded that the tree replacement payments were similar. APHIS officials now acknowledge that the citrus tree replacement payments may be subject to reporting for tax purposes, but stated that APHIS employees did not have the information to determine if a payment would be income, gain, or profit to a producer.

According to IRS, citrus trees (unlike hogs) are a capital asset, and therefore should be reported for tax purposes. OIG notes that APHIS also considered citrus trees a capital asset, because they are a fixed asset of the land.<sup>20</sup> APHIS used this point as a determining factor in deciding that owners of the land would be eligible to receive tree replacement and lost production payments, but citrus growers who only leased and worked the groves, but did not own the trees, would not be eligible to apply for such payments. Given APHIS' understanding of these trees as a capital asset, OIG believes that APHIS should have sought clarification from IRS regarding the tax status of these payments.

## **Recommendation 1**

APHIS should notify and work with the Department to determine what actions should be taken to resolve citrus canker tree replacement payments that were not reported to IRS.

## **Agency Response**

In its March 7, 2011, response, APHIS stated that it will work with the Department to determine what actions should be taken to resolve this issue. APHIS expects the actions to be identified and taken by July 29, 2011.

## **OIG Position**

We accept APHIS' management decision for Recommendation 1.

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<sup>20</sup> Office of the General Counsel's review of Florida law supported APHIS' decision that trees were a capital or fixed asset. APHIS' decision to pay citrus tree owners was upheld in court on February 13, 2006, (Alcides Acosta and Acosta Farms, Inc., vs. USDA).

## **Section 2: Controls Over Citrus Canker Lost Production Program**

### **Finding 2: USDA Agencies Did Not Coordinate to Ensure Correct Payments for Citrus Canker-Related Losses in CY 2005**

From November 21, 2004, to November 20, 2005,<sup>21</sup> RMA-approved insurance providers paid \$100.8 million in indemnities to growers under the Florida Fruit Tree Pilot Crop Insurance Program even as APHIS was issuing payments under the Citrus Canker Lost Production Program. We found, however, that APHIS lacked an adequate control to coordinate with RMA to ensure the accuracy of RMA citrus canker-tree payments to citrus growers and relied on grower-provided information to pay claims for lost production. APHIS officials stated that they did not coordinate more closely with RMA because they did not believe growers would knowingly misrepresent information. We found, however, that growers did not always provide correct information when they applied for the lost production program. Due to the agencies' reliance on grower-provided information that was sometimes incorrect, APHIS overpaid 15 citrus growers \$633,717 and underpaid 6 growers \$486,959—for a total of \$1.1 million in erroneous payments.

*Office of Management and Budget (OMB) Circular A-123* states that agencies are to establish internal controls to ensure that funds, property, and other assets are safeguarded against waste, loss, and unauthorized use or misappropriation. As agencies develop and execute strategies for implementing or reengineering agency programs and operations, they should design management structures that help ensure accountability for results.<sup>22</sup>

Under the Citrus Canker Lost Production Program, APHIS compensated eligible commercial citrus groves for production income lost as a result of the removal of commercial citrus trees to control citrus canker between October 2000 and January 2006.<sup>23</sup> Under the Fruit Tree Pilot Crop Insurance Program, RMA indemnified insured growers against certain causes of tree losses, including citrus canker, beginning with CY 2000 and ending after CY 2007. Federal regulations required APHIS to reduce its citrus canker lost production payments by the amount of any RMA payments owners have received.<sup>24</sup>

Since these two programs effectively overlapped for a period of time and APHIS was required to reduce its payments based on RMA indemnity payments made, APHIS should have developed an internal control to obtain—directly from RMA—information on how much growers had received from RMA's program. We found, however, that APHIS implemented no such internal

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<sup>21</sup> We drew our sample from the last complete RMA Florida Fruit Tree Pilot Crop Insurance Program crop year during which APHIS' Citrus Canker Lost Production Program was in operation.

<sup>22</sup> *OMB Circular A-123*, "Management's Responsibility for Internal Control," December 21, 2004.

<sup>23</sup> The program began in October 2000 when 7 CFR 301.75-15 was issued and ended in January 2006 when USDA ended its efforts to eradicate citrus canker.

<sup>24</sup> Title 7 CFR 301.75-16(b)(2)(i), dated January 1, 2004: "In cases where the owner of a commercial citrus grove had obtained [Asiatic citrus canker] coverage for trees in his or her grove and received crop insurance payments following the destruction of the insured trees, the [Citrus Canker Lost Production Program payment] will be reduced by the total amount of the crop insurance payments received by the commercial citrus grove's owner for the insured trees."

control. When growers applied for the Citrus Canker Loss Production Program, the form asked them to list how much they had received from the approved insurance providers for the Florida Fruit Tree Pilot Crop Insurance Program. APHIS had no system for verifying the accuracy of the amounts that growers provided. Although we found no evidence that growers deliberately provided incorrect information, we found that 21 of 54 growers provided APHIS figures that were inaccurate, generally because the citrus growers misunderstood certain details about the indemnities they had received. As a result of its reliance on grower-provided figures, APHIS overpaid 15 citrus growers in our sample by \$633,717 and underpaid 6 growers \$486,959, for a total of more than \$1.1 million in erroneous payments.

When we asked an APHIS official why APHIS had not obtained information from RMA to verify the accuracy of the indemnity payments citrus growers received, the official stated that APHIS believed that the Federal status of the program would be sufficient to deter growers from purposely providing inaccurate information. However, by relying on a self-certification application, APHIS officials did not consider the possibility that citrus growers might inadvertently provide inaccurate information.

Of the 21 growers to whom APHIS made erroneous payments we found that 11 citrus growers reported the amounts on the crop insurance checks they received instead of the actual indemnity amounts determined by their approved insurance provider.<sup>25</sup> Growers might make this kind of mistake, as they were not necessarily aware that their checks reflected the indemnity amounts minus the premiums owed for the insurance policies. Although APHIS did not require citrus growers to provide any documentation to support their self-certification of their indemnity amounts, a number of citrus growers voluntarily provided copies of their insurance checks. However, neither APHIS nor these 11 growers correctly understood the relationship between the check amount and the indemnity amount. We concluded that the errors we found were caused by APHIS not having a control for coordinating more directly with RMA, as well as by the growers' misunderstanding of how the amount on their checks was determined.

Of the 21 growers and the \$1.1 million in incorrect citrus canker lost production payments we identified, \$216,079 came from a unique situation where the grower responsible for a grove of trees was not the same as the owner of that grove. With APHIS' Citrus Canker Lost Production Program, only owners of the grove were eligible for payments, whereas with RMA's Florida Fruit Tree Pilot Crop Insurance Program, growers were eligible for payments. In this particular case, the grower purchased crop insurance for citrus trees on land leased from the owners. The grower received crop insurance payments from RMA, but was not entitled to citrus canker tree replacement or lost production payments from APHIS. The owners submitted applications for APHIS citrus canker lost production payments on this grove, but did not report to APHIS the \$216,079 in RMA payments that the grower had received for the same trees.<sup>26</sup> Since the owner

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<sup>25</sup> Errors on claims for the other 10 growers derived from other assorted human errors, such as clerical errors.

<sup>26</sup> When we asked APHIS officials about what they had done to mitigate this sort of problem, they stated that they did not face a situation where the grower responsible for a grove of trees was not the same as the owner of that grove. We encountered two situations where the grower responsible for the grove was not the same as the owner of the grove, but in the second situation APHIS reduced the amount of crop insurance the grower received from the owner's lost production payment.

did not report this sum and APHIS did not develop a control for coordinating with RMA, the owner was overpaid by \$216,079 (see exhibit B).

We concluded that if APHIS had coordinated with RMA, it would have been able to mitigate these errors.

## **Recommendation 2**

For the Citrus Canker Lost Production Program, APHIS should recover the \$633,717 that it overpaid to growers.

### **Agency Response**

In its March 7, 2011, response, APHIS stated:

When considering the funds involved in collecting the overpayments, APHIS believes these funds could be put to better use. Costs would be incurred to review the documents provided by OIG; locate the growers who have been overpaid; communicate with the growers; issue and monitor the bills; perform debt management; potentially write off the debt; and coordinate action with the Department of Justice. In addition to the costs the agency and others will incur, these trees were destroyed over five years ago. APHIS believes funds are better used to develop stronger controls to ensure this type of overpayment does not recur.

### **OIG Position**

We cannot accept APHIS' management decision for this recommendation. For monetary findings, APHIS must take certain steps, as prescribed in Departmental Regulation (DR) 1720-1, *Audit Follow-up and Management Decision*, in order for OIG to accept management decision and for the Office of the Chief Financial Officer to accept final action. Before APHIS can make a decision whether or not to collect the cited overpayments, APHIS will have to determine whether it agrees with the overpayments. If APHIS agrees with the overpayments, APHIS needs to provide OIG with evidence that an accounts receivable has been established in the agency's accounting records and a copy of the demand letter issued to the growers who were overpaid, as well as a timeframe for collection. If APHIS disagrees with the overpayments, then it must provide its analyses and support showing that there were no overpayments.

## **Recommendation 3**

APHIS should make appropriate payments to those growers it underpaid \$486,959.

### **Agency Response**

In its March 7, 2011, response, APHIS stated that it will review the grower information provided by OIG and issue payments to growers as appropriate. APHIS expects to issue payments to growers as appropriate by August 31, 2011.

## **OIG Position**

We accept APHIS' management decision for Recommendation 3.

## **Recommendation 4**

APHIS should develop internal controls to consult with other Federal agencies directly to obtain any information needed before any payments are made for future programs.

## **Agency Response**

In its March 7, 2011, response, APHIS stated that it will develop internal controls to consult with other Federal agencies directly to obtain any information needed before any program compensation payments are made. APHIS expects to develop internal controls by September 30, 2011.

## **OIG Position**

We accept APHIS' management decision for Recommendation 4.

## Scope and Methodology

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Our review focused on APHIS' FYs 2005 and 2006 management operations of citrus canker eradication programs, including both the Citrus Canker Lost Production Program and the Citrus Canker Tree Replacement Program. We also reviewed RMA's Florida Fruit Tree Pilot Crop Insurance Program for CY 2005.<sup>27</sup>

Our fieldwork was conducted at the RMA and APHIS national offices, located in Washington, D.C., and Riverdale, Maryland; USDA's APHIS citrus canker eradication project office located in Plantation, Florida; and five locations for selected growers. The audit work covered RMA's indemnity payments for CY 2005, i.e., November 21, 2004, through November 20, 2005, and APHIS' Citrus Canker Tree Replacement and Lost Production Programs payments issued during this same period. For purposes of determining whether tree replacement program payments were reported to IRS, we expanded our scope to include tree replacement payments made from FY 2001 through 2007. All fieldwork was conducted between February 2009 and September 2010.

As part of this review, we judgmentally selected 54 growers for the purpose of comparing crop insurance indemnity payments received based on RMA's Data Acceptance System data with the crop insurance indemnity payments reported to APHIS by growers. These growers were selected because they received at least \$100,000 from RMA's CY 2005 Florida Fruit Tree Pilot Crop Insurance Program and also participated in RMA's CY 2006 Florida Citrus Fruit Crop Insurance Program.

To accomplish the audit objectives, we performed the following procedures:

- Reviewed public laws, RMA and APHIS regulations, policies, procedures, and other controls governing the administration of all three programs.
- Reviewed external and internal reports that resulted from reviews, studies, and evaluations relative to all three programs, including: RMA reports evaluating the Florida Fruit Tree Pilot Crop Insurance Program; APHIS reports reviewing the Florida Citrus Canker Eradication Program and cooperative agreements with the Florida Department of Agriculture and Consumer Services; Federal Manager's Financial Integrity Report for FY 2005; and Government Accountability Office reports on all of USDA or more specific crop insurance issues.
- Analyzed records, reports, correspondence, and other documents pertinent to the three programs, including APHIS' third and fourth round tree replacement and lost production payment records, applications, claim files, and citrus tree and acreage counts; RMA's CY 2005 citrus canker tree loss data, claim files, growers property tax records in Saint Lucie, Hendry, Highlands, Indian River, and Martin counties; OMB Program Assessment Rating Tool reports; and USDA-OIG hotline records.

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<sup>27</sup> OIG's audit covered the Florida Fruit Tree Pilot Crop Insurance Program CY 2005 (November 21, 2004, to November 20, 2005); thus, we reviewed APHIS citrus canker tree replacement and lost production payments made in FYs 2005 and 2006.

- Compared lost production and tree replacement payments growers received from APHIS with citrus canker tree insurance payments growers received from RMA-approved insurance providers and identified those growers that received payments from both agencies.
- Interviewed RMA and APHIS national office officials, and others, including OCFO officials, to identify controls for administering and reporting on all three programs.
- Interviewed growers and reviewed records of citrus grove operations to validate whether program payments were properly adjusted based on provisions for APHIS' Citrus Canker Lost Production Program and the Citrus Canker Tree Replacement Program and RMA's Florida Fruit Tree Pilot Crop Insurance Program.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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APHIS	Animal and Plant Health Inspection Service
CFR	Code of Federal Regulations
CY	Crop Year
FY	Fiscal Year
IRC	Internal Revenue Code
IRS	Internal Revenue Service
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
RMA	Risk Management Agency
USDA	Department of Agriculture

## Exhibit A: Summary of Monetary Results

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Finding No.	Recommendation No.	Description	Amount	Category
1	1	APHIS errors due to incorrect reporting	\$290,880,924	Other Accounting Classification Errors
2	2	APHIS errors due to lack of coordination with RMA	633,717	Question Costs – Recovery Recommended
2	3	APHIS errors due to lack of coordination with RMA	486,959	Other - Underpayments
<b>TOTAL</b>			<b>\$292,001,600</b>	

The table above is titled Exhibit A – Summary of Monetary Results. The table contains columns to identify the finding number, recommendation number, description of error, program dollar amount impacted, and OIG management tracking classification associated with the monetary results from the report’s findings.

## Exhibit B: APHIS Citrus Canker Lost Production Payment Errors (by Grower)

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Grower	Type of Errors	No. of Errors	Overpayments	Underpayments
1	a, b	2		\$84,773.00
2	a, b	2	\$39,402.00	
3	a, f	2	60,573.56	
4	a	1	4,599.00	
5	a	1	1,319.00	
6	a	1	6,045.00	
7	a	1	719.00	
8	a	1	8,982.00	
9	a	1	13,628.00	
10	a	1	284.00	
11	a	1	1,100.00	
12	b	1	8,043.00	
13	b	1		577.23
14	b	1	252,852.55	
15	b	1		147,620.00
16	c	1	216,078.67	
17	d	1		66,794.58
18	d	1	91.54	
19	e	1		1,385.62
20	g	1		185,809.00
21	h	1	20,000.00	
<b>TOTAL</b>		<b>24 Errors</b>	<b>\$633,717.32</b>	<b>\$486,959.43</b>

**Total Erroneous Payments (Overpayments + Underpayments)                      \$1,120,676.75**

The table above is titled Exhibit B – APHIS Citrus Canker Lost Production Payment Errors (by Grower). The table contains columns that list 21 citrus growers identified by numbers 1 through 21, identification of the type of error for each of the 21 citrus growers and coded alphabetically, number of errors per citrus grower, amount of overpayment or underpayment per citrus grower, as well as the total erroneous payments of \$1,120,676.75.

## **Exhibit B: (Continued)**

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Error types explained:

- a. Resulted from owners reporting the amount of the indemnity check instead of the total indemnity payment.
- b. Resulted because APHIS did not match the amount of crop insurance payments received by the grower to the trees identified in the immediate final order.
- c. Resulted from a situation in which owners did not report indemnity payment to APHIS.
- d. Resulted because amount reported by the owner did not match the crop insurance payment.
- e. Resulted from the owner incorrectly rounding the amount received from crop insurance payments by half a cent per tree.
- f. Resulted because owner incorrectly estimated the amount of crop insurance payments and did not report the final amount received.
- g. Resulted from owner not reporting a crop insurance indemnity change made after the submission of the claim to APHIS.
- h. Resulted from APHIS making a clerical error. An owner reported crop insurance payments of \$321,016, but APHIS mistakenly recorded the amount as \$301,016. As a result, APHIS overpaid the owner by \$20,000.

**USDA'S**

**Animal and Plant Health Inspection Service**

**RESPONSE TO AUDIT REPORT**



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

## MEMORANDUM

**TO:** Gil H. Harden  
Assistant Inspector General  
for Audit

**FROM:** Cindy J. Smith /S/ 3/7/2011  
Administrator

**SUBJECT:** APHIS Response and Request for Management  
Decisions on OIG Report, "USDA Payments for  
2005 Citrus Canker Losses" (50099-46-AT)

Thank you for the opportunity for the Animal and Plant Health Inspection Service (APHIS) to comment on this report. We have addressed each Recommendation with our planned corrective actions and the timeframes for implementation of these actions.

**Recommendation 1: APHIS should notify and work with the Department to determine what actions should be taken to resolve citrus canker tree replacements that were not reported to the IRS.**

**APHIS Response:** APHIS will work with the Department to determine what actions should be taken to resolve this issue. APHIS expects the actions will be identified and taken by July 29, 2011.

**Recommendation 2: For the Citrus Canker Lost Production Program, APHIS should recover the \$633,717 that it overpaid to growers.**

**APHIS Response:** When considering the funds involved in collecting the overpayments, APHIS believes these funds could be put to better use. Costs would be incurred to review the documents provided by OIG; locate the growers who have been overpaid; communicate with the growers; issue and monitor the bills; perform debt management; potentially write off the debt; and coordinate action with the Department of Justice. In addition to the costs the agency and others will incur, these trees were destroyed over five years ago. APHIS believes funds are better used to develop stronger controls to ensure this type of overpayment does not recur.

**Recommendation 3: APHIS should make appropriate payments to those growers it underpaid \$486,959.**

**APHIS Response:** APHIS will review the grower information provided by OIG and issue payments to growers as appropriate by August 31, 2011.



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Federal Relay Service  
(Voice/TTY/ASCII/Spanish)  
1-800-877-8339

**Recommendation 4: APHIS should develop internal controls to consult with other Federal agencies directly to obtain any information needed before any payments are made for future programs.**

**APHIS Response:** APHIS will develop internal controls to consult with other Federal agencies directly to obtain any information needed before any program compensation payments are made. APHIS will develop internal controls by September 30, 2011.