

northeast along Gateway Boulevard to the point of beginning.

Done in Washington, DC, this 4th day of September 1997.

**Craig A. Reed,**

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

[FR Doc. 97-23949 Filed 9-9-97; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 97-056-5]

#### Mediterranean Fruit Fly; Additions to Quarantined Areas and Treatments

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

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

**SUMMARY:** We are amending the Mediterranean fruit fly regulations by adding a portion of Sarasota County, FL, to the list of quarantined areas and by expanding the boundaries of the quarantined area in Polk County, FL, due to the detection of Mediterranean fruit fly infestations in those new areas. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States. We are also amending the regulations to provide for the use of irradiation as a treatment for berries, fruits, nuts, and vegetables that are regulated articles. This action will provide an additional option for qualifying those regulated articles for movement from quarantined areas.

**DATES:** This interim rule is effective September 4, 1997. Consideration will be given only to comments received on or before November 10, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-056-5, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-056-5. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: mstefan@aphis.usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78-10, referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States.

In an interim rule effective on June 16, 1997, and published in the **Federal Register** on June 20, 1997 (62 FR 33537-33539, Docket No. 97-056-2), we added a portion of Hillsborough County, FL, to the list of quarantined areas and restricted the interstate movement of regulated articles from that quarantined area, and added eggplant, other than commercially produced eggplant, to the list of regulated articles. In a second interim rule effective on July 3, 1997, and published in the **Federal Register** on July 10, 1997 (62 FR 36976-36978, Docket No. 97-056-3), we expanded the quarantined area in Hillsborough County, FL, and added areas in Manatee and Polk Counties, FL, to the list of quarantined areas. In a third interim rule effective on August 7, 1997, and published in the **Federal Register** on August 13, 1997 (62 FR 43269-43272, Docket No. 97-056-4), we further expanded the quarantined area by adding new areas of Hillsborough County, FL, and an area in Orange County, FL, to the list of quarantined areas. In that third interim rule, we also revised the entry for Manatee County, FL, to make the boundary lines of the quarantined area more accurate.

Recent trapping surveys by inspectors of Florida State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that infestations of Medfly have occurred in an additional area in Polk County and in a portion of Sarasota County, FL.

The regulations in § 301.78-3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

Less than an entire State will be designated as a quarantined area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Medfly. The boundary lines for a portion of a State being designated as quarantined are set up approximately 4.5 miles from the detection sites. The boundary lines may vary due to factors such as the location of Medfly host material, the location of transportation centers such as bus stations and airports, the pattern of persons moving in that State, the number and patterns of distribution of the Medfly, and the use of clearly identifiable lines for the boundaries.

In accordance with those criteria and the recent Medfly findings described above, we are quarantining a new area in Polk County, FL, and an area in Sarasota County, FL. Those new areas are included in the description of quarantined areas contained in § 301.78-3 in the rule portion of this document. We have also changed the manner in which the previously quarantined areas in Hillsborough and Polk Counties are described. Those areas had been described in two entries, one for "Hillsborough County" and one for "Hillsborough and Polk Counties." The joint "Hillsborough and Polk Counties" entry has been eliminated and the quarantined areas that had been described in that entry have been incorporated into the appropriate entry for Hillsborough County or Polk County.

##### Irradiation Treatment

We are also amending the Medfly regulations to include irradiation as a treatment for those berries, fruits, nuts, and vegetables that are listed as regulated articles in § 301.78-2(a) of the regulations. Without irradiation, the only treatments made available by the regulations have been vapor heat for bell peppers, fumigation or vapor heat for tomatoes, and fumigation, fumigation

plus refrigeration, or cold treatment for regulated citrus fruit that has been harvested. The addition of irradiation provides a treatment option for use on those commodities as well as all other regulated berries, fruits, nuts, and vegetables grown in a quarantined area.

To accommodate the inclusion of irradiation as an authorized treatment under the Medfly regulations, we are amending § 301.78–10, “Treatments,” by redesignating paragraphs (c) and (d) of that section, which pertain to treating premises and soil, respectively, as paragraphs (d) and (e), and adding the irradiation provisions as a new paragraph (c).

The provisions we are adding to the Medfly regulations for the use of irradiation as a treatment are, for all practical purposes, the same as those provided in § 318.13–4f of “Subpart—Hawaiian Fruits and Vegetables” (7 CFR 318.13 through 318.13–17), which provides for the use of irradiation as a treatment for carambola, litchi, and papaya grown in Hawaii. The irradiation provisions we have added to the Medfly regulations differ from those of § 318.13–4f in only three substantive respects: (1) The number of commodities and pests for which irradiation is an approved treatment, (2) the prescribed irradiation dose rate, and (3) the location of approved facilities and the conditions governing the interstate movement of treated and untreated commodities. These three differences are discussed below.

With respect to the first difference cited above—the number of commodities and pests for which the Medfly regulations authorize irradiation as a treatment—the irradiation provisions of the Medfly regulations expand the number of commodities from the 3 listed in § 318.13–4f (i.e., carambola, litchi, and papaya) to the 54 berries, fruits, nuts, and vegetables listed as regulated articles in § 301.78–2(a). As discussed above, the Medfly regulations did not provide treatments for commodities other than bell pepper, tomato, and harvested citrus fruit. As noted in APHIS’ policy statement regarding the application of irradiation to phytosanitary problems (published in the **Federal Register** on May 15, 1996, 61 FR 24433–24439, Docket No. 95–088–1), the U.S. Department of Agriculture’s (USDA’s) Agricultural Research Service (ARS) conducted exhaustive research to determine commodity-generic irradiation dose rates that will provide an acceptable level of quarantine security with regard to certain pests. Given that a commodity-generic dose rate has been established for Medfly, we believe that

it is appropriate to provide the prescribed irradiation treatment as an option for growers of any of the 54 different berries, fruits, nuts, and vegetables listed as regulated articles who wish to obtain certification for the interstate movement of their commodities on the basis of treatment.

The second difference cited above pertains to the prescribed irradiation dose rate. The commodity-generic dose rate established by ARS for Medfly is 225 Gray (22.5 krad), so we have established 225 Gray as the prescribed dose rate in the Medfly regulations, rather than the 250 Gray (25 krad) prescribed in § 318.13–4f of “Subpart—Hawaiian Fruits and Vegetables.” Although Medfly is among the pests of concern in Hawaii, the focus of the treatments in § 318.13–4f is on what is referred to as the “Trifly complex,” which consists of Medfly, Oriental fruit fly (*Bactrocera dorsalis*), and the melon fly (*Bactrocera cucurbitae*). Of the three, the Oriental fruit fly is the species most resistant to irradiation, requiring a dose rate of 250 Gray, so it was necessary for the irradiation protocol prescribed in § 318.13–4f to require that higher dose rate in order to provide quarantine security against all three pests of the Trifly complex. Because the Oriental fruit fly is not a pest of concern in the Medfly regulations, we have set 225 Gray as the prescribed dose rate in § 301.78–10.

The third and final difference cited above pertains to the location of approved facilities and the conditions governing the interstate movement of treated and untreated commodities. Section 318.13–4f of “Subpart—Hawaiian Fruits and Vegetables” provides for interstate movement of carambola, litchi, and papaya from Hawaii and the application of irradiation treatment either in Hawaii or, under certain conditions, at approved facilities on the mainland. Those provisions relate to treatment in Hawaii, the movement of treated and untreated fruits and vegetables to the mainland, and restrictions on the mainland States where an approved facility for the treatment of carambola, litchi, and papaya from Hawaii may be located, as well as a prohibition against the movement of litchi into Florida. The regulations pertaining to the location of approved facilities in Hawaii and the mainland, as well as the restrictions on the movement of litchi, are not relevant to the Medfly regulations and were, therefore, not included. Further, in adding irradiation as a treatment in the Medfly regulations, we did not believe it was necessary to include similar interstate movement conditions in the

section describing the treatment (§ 301.78–10) because the Medfly regulations in § 301.78–4 already address the conditions governing the interstate movement of regulated articles from a quarantined area, including regulated articles that have been treated in accordance with § 301.78–10.

The remaining provisions of § 318.13–4f of “Subpart—Hawaiian Fruits and Vegetables”—i.e., those provisions regarding approved facilities, treatment monitoring, packaging, dosimetry systems, certification based on treatment, recordkeeping, requests for approval and inspection of facilities, denial and withdrawal of approval, and the USDA’s non-responsibility for loss or damage resulting from treatment—have been reproduced in the Medfly regulations and serve the same purpose as in § 318.13–4f.

### Miscellaneous

We have amended the introductory text of § 310.78–10 to remove an outdated reference to the kinds of regulated articles for which treatments are provided in that section. The last sentence of that introductory text, which stated “The following treatment may be used for bell pepper, tomato, and soil,” should have been updated previously to reflect the inclusion in the regulations of treatments for regulated citrus fruit that has been harvested and for premises within a quarantined area. To correct that omission, and to reflect the inclusion of the irradiation treatments discussed above, we have changed that final sentence to read “The following treatments may be used for the regulated articles indicated.”

We have amended § 301.78–1 to add a definition of the term “core area.” That term is used in § 301.78–10 with regard to the treatment of premises in a quarantined area, but is not defined. We have defined “core area” as “The 1 square mile area surrounding each property where Mediterranean fruit fly has been detected.” Except for the specific reference to Medfly, the definition is the same as the definition provided for the same term in our domestic quarantine regulations for Mexican fruit fly (7 CFR 301.64 through 301.64–10) and Oriental fruit fly (7 CFR 301.93 through 301.93–10). We have also made a minor editorial correction in two places in the regulations.

### Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for

public comment. Immediate action is necessary to prevent the Medfly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Medfly regulations by adding a portion of Sarasota County, FL, to the list of quarantined areas and by expanding the boundaries of the quarantined area in Polk County, FL, due to the detection of Mediterranean fruit fly infestations in those new areas. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States. This interim rule also amends the regulations to provide for the use of irradiation as a treatment for berries, fruits, nuts, and vegetables that are regulated articles. This action will provide an additional option for qualifying those regulated articles for movement from quarantined areas.

This interim rule is the fourth in a series of interim rules that have designated certain areas of Florida as quarantined areas for Medfly. The three previous interim rules were published in the **Federal Register** on June 20, 1997 (62 FR 33537–33539, Docket No. 97–056–2), July 10, 1997 (62 FR 36976–36978, Docket No. 97–056–3), and August 13, 1997 (62 FR 43269–43272, Docket No. 97–056–4). In each of those interim rules, we stated that the emergency situation with respect to Medfly made compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We further stated that, if we determined that those rules would have a significant economic impact on a substantial number of small entities, we would discuss the issues raised by section 604 of the Regulatory Flexibility Act in our

Final Regulatory Flexibility Analysis. For this interim rule, we have prepared a regulatory flexibility analysis that examines the potential economic impacts on small entities of this interim rule, as well as of the three previous interim rules.

We estimate that there are 1,062 entities in the quarantined areas of Hillsborough, Manatee, Polk, Orange, and Sarasota Counties that sell, process, handle, or move regulated articles; that estimate considers 13 transportation terminals, 295 fruit stands, 64 flea markets, 4 processing plants, 64 farmers markets, 189 nurseries (primarily retail), 149 mobile produce vendors, 256 food stores, 2 fruit shippers, 3 commercial growers, 21 garbage service firms, 1 vegetable packinghouse, and 1 hauler/harvester. The number of these entities that meet the U.S. Small Business Administration's (SBA's) definition of a small entity is unknown, since the information needed to make that determination (i.e., each entity's gross receipts or number of employees) is not currently available. However, it is reasonable to assume that most of the 1,062 entities are small in size, since the overwhelming majority of businesses in central Florida, as well as the rest of the United States, are small entities by SBA standards. As an example, there were 1,099 grocery stores in the Tampa metropolitan area in 1992. The per-store average sales for all 1,099 stores was \$2.9 million, well below the SBA's current small entity size standard of \$20.0 million for those types of stores. Similarly, the 1992 per-store average sales for all 115 retail nursery and lawn and garden supply stores in the Tampa metropolitan area was \$0.5 million, well below the SBA's current small entity size standard of \$5.0 million for those types of stores.

Few, if any, of the 1,062 entities will be significantly affected by the quarantine actions taken in the four interim rules because virtually all of those entities do not typically move regulated articles outside the State of Florida during the normal course of their business. Nor do consumers of products purchased from those entities generally move those products interstate. Fruit stands, flea markets, farmers markets, retail nurseries, mobile produce vendors, and food stores comprise, on a combined basis, 1,017 (or about 96 percent) of the 1,062 entities in the quarantined area that sell or handle regulated articles, and the operations of those entities are essentially local in nature. The fruits and vegetables sold by grocery stores and other retail food outlets are generally sold locally for local

consumption. Retail nurseries also market their products locally, for local consumption. The interim rules, because they restrict the interstate movement of regulated articles, will have little or no impact on the vast majority of entities in the quarantined area.

The 12 transportation terminals, 4 processing plants, and 2 fruit shippers comprise the remaining 4 percent of the 1,062 entities in the quarantined area who sell or handle regulated articles. The processors will be largely unaffected by the rule change because any regulated articles they might use are typically used to produce fruit juices and fruit parts, products that are not regulated articles and, as a consequence, are not restricted as to their interstate movement. The transportation terminals are comprised primarily of airports and distribution centers such as U.S. Postal Service facilities and package delivery centers. Most of the terminals derive the bulk of their revenues from activities other than the interstate movement of regulated articles, so the impact of the interim rules on them should be minimal. The two fruit shippers have the potential to be significantly affected, since they would be expected to generate at least some of their revenues from the interstate shipment of fruit. The commercial growers, garbage service firms, vegetable packinghouse, and hauler/harvester also have the potential to be significantly affected. However, the effect on those few small entities that do move regulated articles interstate from the quarantined areas will be minimized by the availability of various treatments that, in most cases, will allow those small entities to move regulated articles interstate with very little additional cost. Also, many of those small entities sell other items in addition to regulated articles, so the effect, if any, of the interim rules should be minimal.

Finally, the addition of noncommercial eggplant to the list of articles regulated for the Medfly should have minimal impact on small entities. This is because small entities are comprised primarily of small businesses, and most small businesses in the regulated area sell or handle only commercially produced eggplant.

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

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance

under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V).

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The site specific environmental assessment and programmatic Medfly environmental impact statement provide a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

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

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–1, the defined term *Commercially-produced* is revised to read *Commercially produced*, and a definition of *Core area* is added, in alphabetical order, to read as follows:

##### § 301.78–1 Definitions.

\* \* \* \* \*

*Core area.* The 1 square mile area surrounding each property where Mediterranean fruit fly has been detected.

\* \* \* \* \*

##### § 301.78–2 [Amended]

3. In § 301.78–2, paragraph (a), the entry “Eggplant (*Solanum melongena* L.), other than commercially-produced eggplant” is amended by removing the words “commercially-produced” and adding the words “commercially produced” in their place.

4. In § 301.78–3, paragraph (c), the entry for Florida is amended by removing the entry for Hillsborough and Polk Counties, and by revising the entry for Hillsborough County and adding entries for Polk County and Sarasota County to read as follows:

##### § 301.78–3 Quarantined areas.

\* \* \* \* \*

(c) \* \* \*

#### FLORIDA

*Hillsborough County.* Beginning at the intersection of the Hillsborough/Polk County line and the section line dividing secs. 25 and 36, T. 27 S., R. 22 E.; then west along the section line dividing secs. 25 and 36, T. 27 S., R. 22 E. to the Hillsborough River; then west along the Hillsborough River to I–75; then north along I–75 to the Hillsborough/Pasco County line; then west along the Hillsborough/Pasco County line to the section line dividing secs. 5 and 6, T. 27 S., R. 18 E.; then south along the section line dividing secs. 5 and 6, T. 27 S., R. 18 E., to Veterans Expressway; then south along Veterans Expressway to Erlich Road;

then west along Erlich Road to Gunn Highway; then north along Gunn Highway to Mobley Road; then west along Mobley Road to Racetrack Road; then south and west along Racetrack Road to the Hillsborough County line; then south along the Hillsborough County line to I–275; then east along I–275 to the westernmost land mass at the eastern end of the Howard Franklin Bridge; then south, east, and north along the shoreline of Old Tampa Bay, Tampa Bay, and Hillsborough Bay (including the Interbay Peninsula, Davis Island, Harbour Island, Hooker's Point, and Port Sutton) to the shoreline of the Alafia River's extension; then east along the shoreline of the Alafia River's extension to U.S. Highway 301; then south along U.S. Highway 301 to Balm-Riverview Road; then south and east along Balm-Riverview Road to Rhodine Road; then east along Rhodine Road to Boyette Road; then south, east, and north along Boyette Road to Dorman Road; then east along Dorman Road to Browning Road; then north along Browning Road to Lithia-Pinecrest Road; then east along Lithia-Pinecrest Road to Bryant Road; then north along Bryant Road to the Alafia River; then east along the Alafia River to the North Prong Alafia River; then north and west along the North Prong Alafia River to Poley Creek; then east and north along Poley Creek to Hillsborough County line; then north along the county line to the point of beginning.

The following portion of Hillsborough County is also a quarantined area: Beginning at the mouth of Cockroach Creek in Cockroach Bay; then south along the shoreline of the Cockroach Creek to Valroy Road; then east along Valroy Road to I–75; then north along I–75 to the Little Manatee River; then east along the shoreline of the Little Manatee River to the section line dividing secs. 26 and 27, T. 32 S., R. 19 E.; then north along the section line dividing secs. 26 and 27, T. 32 S., R. 19 E., to the section line dividing secs. 22 and 23, T. 32 S., R. 19 E. (also known as SE. 36th Street); then north along the section line dividing secs. 22 and 23, T. 32 S., R. 19 E., (also known as SE. 36th Street) to the section line dividing secs. 14 and 15, T. 32 S., R. 19 E.; then north along the section line dividing secs. 14 and 15, T. 32 S., R. 19 E. to I–75; then north along I–75 to NE. 19th Avenue; then west along NE. 19th Avenue to the section line dividing secs. 34 and 35, T. 31 S., R. 19 E.; then north along the section line dividing secs. 34 and 35, T. 31 S., R. 19 E., through sections 26 and 27, secs. 22 and 23, and secs. 14 and 15, T. 31 S., R. 19 E., to U.S. Highway 41; then

north along U.S. Highway 41 to Big Bend Road (State Road 672); then west along Big Bend Road (State Road 672) to its end; then west along an imaginary line to the shoreline of Tampa Bay; then south and west along the shoreline of Tampa Bay (including all land masses to the east of Tampa Bay) to the shoreline of Cockroach Bay; then south and east along the shoreline of Cockroach Bay to the point of beginning.

\* \* \* \* \*

**Polk County.** Beginning at the Hillsborough/Polk County line and Poley Creek; then northeast on Poley Creek to State Highway 60; then east along State Highway 60 until it becomes Van Fleet Drive in the city of Bartow; then east along Van Fleet Drive to its intersection with U.S. Highway 17; then north along U.S. Highway 17 to the section line dividing secs. 27 and 28 of T. 29 S., R. 25 E.; then north along the section line dividing secs. 27 and 28 of T. 29 S., R. 25 E. to Thornhill Road; then north along Thornhill Road to State Highway 540; then west along State Highway 540 to the section line dividing secs. 31 and 32 of T. 28 S., R. 25 E.; then north on the section line dividing secs. 31 and 32 of T. 28 S., R. 25 E., to the section line dividing secs. 30 and 31 of T. 27 S., R. 25 E.; then west along the section line dividing secs. 30 and 31 of T. 27 S., R. 25 E., to the intersection of I-4 and Highway 582; then southwest along I-4 to the section line dividing secs. 9 and 16, T. 28 S., R. 23 E. (corner of Swindell Road and Sutton Road); then west along the section line dividing secs. 9 and 16, T. 28 S., R. 23 E., to the Hillsborough/Polk County line (County Line Road); then south along the county line to the point of beginning.

\* \* \* \* \*

**Sarasota County.** Beginning at the water's edge of Sarasota Bay and Virginia Drive; then west on Virginia Drive to U.S. Highway 41 (Tamiami Trail); then east across U.S. 41 on Martin Luther King Drive and 27th Street (Highway 683) to Lockwood Ridge Road; then south along Lockwood Ridge Road to 17th Street; then east along 17th Street to Honore Avenue; then south along Honore Avenue to State Highway 780 (Fruitville Road); then east along State Highway 780 to I-75; then south along I-75 to State Highway 72 (Clark Road); then west along State Highway 72 to State Highway 773 (Beneva Road); then south along State Highway 773 to U.S. Highway 41 (Tamiami Trail); then south across U.S. Highway 41 along Vamo Road to Livingstone Street; then west along Livingstone Street to the water's

edge of Little Sarasota Bay; then north along the shoreline to the point of beginning. In addition, all islands and keys of Sarasota County from New Pass south to the point where Turtle Beach Drive meets Midnight Pass Road are part of the area regulated for Medfly in Sarasota County.

5. In § 301.78-10, in the introductory text of the section, the last sentence is amended by removing the words "treatment may be used for bell pepper, tomato, and soil" and by adding in their place the words "treatments may be used for the regulated articles indicated".

6. In § 301.78-10, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to read as follows:

#### § 301.78-10 Treatments.

\* \* \* \* \*

(c) *Approved irradiation treatment.* Irradiation, carried out in accordance with the provisions of this paragraph, is approved as a treatment for any berry, fruit, nut, or vegetable listed as a regulated article in § 301.78-2(a) of this subpart.

(1) *Approved facility.* The irradiation treatment facility and treatment protocol must be approved by the Animal and Plant Health Inspection Service. In order to be approved, a facility must:

(i) Be capable of administering a minimum absorbed ionizing radiation dose of 225 Gray (22.5 krad) to the fruits and vegetables;<sup>8</sup>

(ii) Be constructed so as to provide physically separate locations for treated and untreated fruits and vegetables, except that fruits and vegetables traveling by conveyor directly into the irradiation chamber may pass through an area that would otherwise be separated. The locations must be separated by a permanent physical barrier such as a wall or chain link fence 6 or more feet high to prevent transfer of cartons;

(iii) Complete a compliance agreement with the Animal and Plant Health Inspection Service as provided in § 301.78-6 of this subpart; and

(iv) Be certified by Plant Protection and Quarantine for initial use and annually for subsequent use. Recertification is required in the event that an increase or decrease in radioisotope or a major modification to equipment that affects the delivered dose. Recertification may be required in cases where a significant variance in dose delivery is indicated.

<sup>8</sup>The maximum absorbed ionizing radiation dose and the irradiation of food is regulated by the Food and Drug Administration under 21 CFR part 179.

(2) *Treatment monitoring.* Treatment must be carried out under the monitoring of an inspector. This monitoring must include inspection of treatment records and unannounced inspection visits to the facility by an inspector. Facilities that carry out continual irradiation operations must notify an inspector at least 24 hours before the date of operations. Facilities that carry out periodic irradiation operations must notify an inspector of scheduled operations at least 24 hours before scheduled operations.<sup>9</sup>

(3) *Packaging.* Fruits and vegetables that are treated within a quarantined area must be packaged in the following manner:

(i) The cartons must have no openings that will allow the entry of fruit flies and must be sealed with seals that will visually indicate if the cartons have been opened. They may be constructed of any material that prevents the entry of fruit flies and prevents oviposition by fruit flies into the fruit in the carton.<sup>10</sup>

(ii) The pallet-load of cartons must be wrapped before it leaves the irradiation facility in one of the following ways:

(A) With polyethylene sheet wrap;

(B) With net wrapping; or

(C) With strapping so that each carton on an outside row of the pallet load is constrained by a metal or plastic strap.

(iii) Packaging must be labeled with treatment lot numbers, packing and treatment facility identification and location, and dates of packing and treatment.

(4) *Dosage.* The fruits and vegetables must receive a minimum absorbed ionizing radiation dose of 225 Gray (22.5 krad).<sup>11</sup>

(5) *Dosimetry systems.* (i) Dosimetry must demonstrate that the absorbed dose, including areas of minimum and maximum dose, is mapped, controlled, and recorded.

(ii) Absorbed dose must be measured using a dosimeter that can accurately measure an absorbed dose of 225 Gray (22.5 krad).

(iii) The number and placement of dosimeters used must be in accordance with American Society for Testing and Materials (ASTM) standards.<sup>12</sup>

<sup>9</sup>Inspectors are assigned to local offices of the Animal and Plant Health Inspection Service, which are listed in telephone directories.

<sup>10</sup>If there is a question as to the adequacy of a carton, send a request for approval of the carton, together with a sample carton, to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Phytosanitary Issues Management Team, 4700 River Road Unit 140, Riverdale, Maryland 20737-1236.

<sup>11</sup>See footnote 8.

<sup>12</sup>Designation E 1261, "Standard Guide for Selection and Calibration of Dosimetry Systems for

(6) *Records.* Records or invoices for each treated lot must be made available for inspection by an inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays). An irradiation processor must maintain records as specified in this section for a period of time that exceeds the shelf life of the irradiated food product by 1 year, and must make these records available for inspection by an inspector. These records must include the lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.

(7) *Request for approval and inspection of facility.* Persons requesting approval of an irradiation treatment facility and treatment protocol must submit the request for approval in writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Oxford Plant Protection Center, 901 Hillsboro St., Oxford, NC 27565. Before the Administrator determines whether an irradiation facility is eligible for approval, an inspector will make a personal inspection of the facility to determine whether it complies with the standards of paragraph (c)(1) of this section.

(8) *Denial and withdrawal of approval.* (i) The Administrator will withdraw the approval of any irradiation treatment facility when the irradiation processor requests in writing the withdrawal of approval.

(ii) The Administrator will deny or withdraw approval of an irradiation treatment facility when any provision of this section is not met. Before withdrawing or denying approval, the Administrator will inform the irradiation processor in writing of the reasons for the proposed action and provide the irradiation processor with an opportunity to respond. The Administrator will give the irradiation processor an opportunity for a hearing regarding any dispute of a material fact, in accordance with rules of practice that will be adopted for the proceeding. However, the Administrator will suspend approval pending final determination in the proceeding, if he or she determines that suspension is necessary to prevent the spread of any dangerous insect infestation. The suspension will be effective upon oral or written notification, whichever is earlier, to the irradiation processor. In the event of oral notification, written

confirmation will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.

(9) *Department not responsible for damage.* This treatment is approved to assure quarantine security against Mediterranean fruit fly. From the literature available, the fruits and vegetables authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are safe and wholesome for human consumption.

\* \* \* \* \*

Done in Washington, DC, this 4th day of September 1997.

**Craig A. Reed,**

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

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## POSTAL SERVICE

### 39 CFR Part 20

#### Implementation of Global Package Link Service

**AGENCY:** Postal Service.

**ACTION:** Interim rules with request for comments.

**SUMMARY:** Global Package Link is an international mail service designed for companies sending merchandise to other countries. To implement an agreement previously entered into with the postal administration of France, that country is now being added as a destination country. This action is consistent with the Postal Service's original plan to add destination countries as customer needs dictate (59 FR 65961; December 22, 1994). Global Package Link Service has previously been made available to Brazil, Canada, Chile, China, Germany, Japan, Mexico, Singapore, and the United Kingdom. To use Global Package Link (GPL) service, a customer must mail at least 10,000 GPL packages a year and agree to link its information systems with those of

the Postal Service, so that the Postal Service can extract certain information about the contents of the customer's packages for customs clearance and other purposes. Initially, the Postal Service will offer one Standard delivery option in France. A second, Premium Service, is under development and will be available in the next year. Interim regulations have been developed, and are set forth below for comment and suggested revision prior to adoption in final form.

**DATES:** The interim regulations take effect September 10, 1997. Comments must be received on or before October 10, 1997.

**ADDRESSES:** Written comments should be mailed or delivered to Global Package Link Service, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 370 IBU, Washington, DC 20260-6500. Copies of all written comments will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Robert Michelson at the above address. Telephone: (202) 268-5731.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

One of the most important goals of the Postal Service's international mission is the development of services that enhance the ability of U.S. companies to do business in other countries. This responsibility was delineated in 39 U.S.C. 403(b)(2), which makes it the obligation of the Postal Service "to provide types of mail service to meet the needs of different categories of mail and mail users." Global Package Link is designed to more closely meet the needs of customers who send merchandise packages from the United States to multiple international addresses by simplifying the process companies use to prepare their packages for mailing and by reducing the costs those companies incur in mailing merchandise to other countries. Global Package Link makes it easier and more economical for businesses in the United States to export their products to international markets.

In late 1994, with implementation of International Package Consignment Service, later renamed Global Package Link, to Japan (59 FR 65961; December 22, 1994), the Postal Service announced that, when feasible, it would expand the service to other destination countries based on customer requests. The Postal Service later expanded GPL by adding Canada, the United Kingdom, Brazil, Chile, China, Germany, Mexico, and