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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98-082-5]

Mexican Fruit Fly Regulations; Removal of Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by removing the regulated portion of San Diego County, CA, from the list of regulated areas. We have determined that the Mexican fruit fly has been eradicated from this area and that restrictions on the interstate movement of regulated articles from this area are no longer necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. This action relieves unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area. As a result of this action, there are no longer any areas regulated for the Mexican fruit fly in the State of California.

DATES: This interim rule is effective as of July 25, 1999. We invite you to comment on this docket. We will consider all comments that we receive by September 24, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98-082-5, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 98-082-5.

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 rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247; or e-mail: michael.b.stefan@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is a destructive pest of citrus and other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas. The Mexican fruit fly regulations, contained in 7 CFR 301.64 through 301.64-10 (referred to below as the regulations), quarantine infested States, designate regulated areas, and restrict the interstate movement of specified fruits and other regulated articles from regulated areas in order to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. Quarantined States are listed in § 301.64(a), and regulated areas are listed in § 301.64-3(c).

In an interim rule effective August 10, 1998, and published in the **Federal Register** on August 14, 1998 (63 FR 43603-43604, Docket No. 98-082-1), we amended the Mexican fruit fly regulations by designating a portion of the El Cajon area of San Diego County, CA, as a regulated area. In a second interim rule effective October 16, 1998, and published in the **Federal Register** on October 22, 1998 (63 FR 56537-56539, Docket No. 98-082-2), we designated a portion of the San Diego area of San Diego County, CA, as a regulated area. In a third interim rule effective November 16, 1998, and published in the **Federal Register** on

November 20, 1998 (63 FR 64409-64411, Docket No. 98-082-3), we expanded the regulated area in the San Diego area of San Diego County, CA. In a fourth interim rule effective June 9, 1999, and published in the **Federal Register** on June 15, 1999 (64 FR 31964-31966, Docket No. 98-083-4), we amended the Mexican fruit fly regulations by removing the regulated portion of the El Cajon area in San Diego County, CA, from the list of regulated areas.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, we have determined that the Mexican fruit fly has been eradicated from the San Diego area of San Diego County, CA. The last finding of Mexican fruit fly thought to be associated with the infestation in this area was made on December 21, 1998.

Since then no evidence of Mexican fruit fly infestations has been found in this area. Therefore, we are removing this area from the list of areas in § 301.64-3(c) that are regulated because of the Mexican fruit fly. As a result of this action, there are no longer any areas in California regulated because of the Mexican fruit fly. Because we have determined that the Mexican fruit fly no longer exists in California, we are removing California from the list in § 301.64(a) of States quarantined because of the Mexican fruit fly.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the public. The area in California affected by this document was regulated due to the possibility that the Mexican fruit fly could spread to noninfested areas of the United States. Since this situation no longer exists, the continued regulated status of this area would impose unnecessary restrictions.

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 this action effective less than 30 days after publication. 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**. The document 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 rule removes restrictions on the interstate movement of regulated articles from a portion of San Diego County, CA. Within this regulated area, there are 265 small entities that may be affected by this rule. These include 210 fruit sellers, 12 nurseries, 16 wholesale distributors, 1 grower, 4 mobile fruit vendors, 2 farmer's markets, and 20 farmer's market vendors. These 265 entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

These small entities sell regulated articles primarily for local intrastate, not interstate, movement, and the distribution of these articles was not affected by the regulatory provisions we are removing. Many of these entities also handle other items in addition to the previously regulated articles. The effect on those few entities that move regulated articles interstate was minimized by the availability of various treatments that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost. Therefore, the effect, if any, of this rule on these entities appears to be minimal.

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 interim 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 not retroactive effect; and (3) does

not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subject in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 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).

§ 301.64 [Amended]

2. In § 301.64, paragraph (a) is amended by removing the phrase “the States of California and Texas” and by adding the phrase “the State of Texas” in its place.

§ 301.64–3 [Amended]

3. In § 301.64–3, paragraph (c) is amended by removing the entry for California and the description of the regulated area for San Diego County, CA.

Done in Washington, DC, this 20th day of July 1999.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–18980 Filed 7–23–99; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under the Tort Claims Act and Representations and Indemnification of SBA Employees

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: With this rule, SBA revises a portion of its regulations governing Administrative Claims under the Tort Claims Act. Previously, a claim had to be presented to the SBA District Counsel for the SBA District Office in the same State as the claim. The SBA District Counsel had the authority to deny a tort claim of \$5,000 or less or to

recommend any other action to the SBA General Counsel. This final rule provides the same authority to Disaster Area Counsel when the claim is based on the acts or omissions of employees of SBA's Disaster Assistance Program. It also vests authority to approve or deny a tort claim of \$25,000 or less with SBA's Associate General Counsel for Litigation, rather than the General Counsel.

DATES: This rule is effective July 26, 1999.

FOR FURTHER INFORMATION CONTACT: Timothy C. Treanor, Chief Counsel to the Disaster Assistance Program, Office of General Counsel, at (202) 205–6885.

SUPPLEMENTARY INFORMATION: SBA promulgates, without change, a rule which it proposed on April 29, 1999 (64 FR 23027). SBA received no comments to the proposed rule.

Under the Disaster Assistance Program, SBA makes direct loans to individual and business victims of natural disasters. SBA makes these loans through an organizational structure that is separate and distinct from other SBA lending programs. The Disaster Assistance Program operates from four permanent Area Offices and from temporary local offices that are from time to time established to handle such disasters. SBA's Disaster Area Office employees and local office employees are located in different offices from other SBA employees and report to different managers.

Under the previous regulation, SBA's District Counsels who are not located in disaster offices had exclusive authority to investigate any claim arising within the jurisdiction covered by their Districts, including claims based on acts or omissions of Disaster Assistance employees. District Counsels also had the authority to deny or recommend approval of a claim for \$5,000 or less. Under the previous regulation, District Counsels investigated claims exceeding \$5,000 but less than \$25,000 and forwarded them with a recommendation to SBA's General Counsel.

Under the new regulation, a claimant may file a tort claim against SBA for the acts or omissions of an employee of SBA's Disaster Assistance Program either at the State's District Office (the one closest to the site of the injury if there is more than one District Office) or at the nearest Disaster Area Office. The new regulation provides authority identical to that of the District Counsel to the Disaster Area Counsel to investigate and make recommendations concerning claims arising from a Disaster Assistance employee's acts or omissions. It also vests the Associate