

# Rules and Regulations

Federal Register

Vol. 65, No. 75

Tuesday, April 18, 2000

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 99-075-3]

#### 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 Bernardino and Riverside Counties, 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.

**DATES:** The interim rule was effective April 12, 2000. We invite you to comment on this docket. We will consider all comments that we receive by June 19, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 99-075-3, 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. 99-075-3.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m.,

Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. 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.

#### 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 September 22, 1999, and published in the **Federal Register** on September 28, 1999 (64 FR 52211-52212, Docket No. 99-075-1), we amended the Mexican fruit fly regulations by designating an area in San Bernardino and Riverside Counties, CA, as a regulated area. In a second interim rule effective December 14, 1999, and published in the **Federal Register** on December 21, 1999 (64 FR 71267-71270, Docket No. 99-075-2), we amended the Mexican fruit fly regulations by adding a portion of San Diego and Riverside Counties, CA, to the list of areas regulated because of the Mexican fruit fly.

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 regulated area of San Bernardino and Riverside Counties, CA. The last finding of Mexican fruit fly thought to be associated with the infestation in this area was made on August 27, 1999. 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.

#### 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 Bernardino and Riverside Counties, CA, that has been regulated because of the Mexican fruit fly. Within this regulated area, there are 106 small entities that may be affected by this rule. These

include 2 distributors, 62 fruit sellers, 19 growers, 1 landfill, 18 nurseries, 1 packer, 1 processor, and 2 swap meets. These 106 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 do 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 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.

#### 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 Subjects 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).

#### § 301.64–3 [Amended]

2. In § 301.64–3, paragraph (c) is amended by removing the entry and the description of the regulated area for “San Bernardino and Riverside Counties”, CA.

Done in Washington, DC, this 12th day of April 2000.

**Bobby R. Acord,**

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

[FR Doc. 00–9669 Filed 4–17–00; 8:45 am]

**BILLING CODE 3410–34–U**

### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 9 CFR Part 52

[Docket No. 98–123–6]

RIN 0579–AB10

#### Pseudorabies in Swine; Payment of Indemnity

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

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

**SUMMARY:** We are amending the regulations regarding the payment of indemnity for herds of swine depopulated because of pseudorabies to provide that the Animal and Plant Health Inspection Service will pay owners of the swine an indemnity equal to the difference between the net salvage received and the fair market value of the swine destroyed. We are also providing for the payment of indemnity for individual breeding sows destroyed because they are infected with pseudorabies. We have determined that this action will allow for the payment of indemnity from accelerated pseudorabies eradication program funds for a greater number of swine disposed of because they are infected with pseudorabies. This action is necessary to further pseudorabies eradication efforts and to protect swine not infected with pseudorabies from the disease.

**DATES:** Interim rule effective April 12, 2000. Consideration will be given only to comments received on or before June 19, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 98–123–6, 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. 98–123–6.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepord.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold Taft, Senior Staff Veterinarian, Swine Diseases, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–7708.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service's (APHIS's) regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies.

Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine. The disease, also known as Aujeszky's disease, mad itch, and infectious vulbar paralysis, is caused by a herpes virus, and is known to cause reproductive problems, including abortion and stillborn death, and death in neonatal pigs, and occasional death losses in breeding and finishing hogs. Prior to 1998, the cost of pseudorabies to pork producers alone in the United States was over \$30 million annually. Of this amount, more than half, \$17 million, represented the cost of vaccination, and another \$11 million was attributable to pig deaths. The remainder was spent on testing.

A Federal eradication program for pseudorabies was implemented in the United States in 1989. The program is cooperative in nature and involves Federal, State, and industry participation. In an interim rule published in the **Federal Register** on January 15, 1999, and effective as of