

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 98-084-1]

#### 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 regulations to remove the quarantined portion of Los Angeles County, CA, from the list of areas regulated because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from Los Angeles County, CA, and that restrictions on the interstate movement of regulated articles from Los Angeles County, CA, 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:** Interim rule effective August 15, 1998. Consideration will be given only to comments received on or before October 19, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 98-084-1, 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. 98-084-1. 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 Operations, 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 November 10, 1997, and published in the **Federal Register** on November 17, 1997 (62 FR 61213-61215, Docket No. 97-113-1), we quarantined the State of California and designated a portion of Los Angeles County, CA, as a regulated area due to an infestation with 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 Los Angeles County, CA. The last finding of Mexican fruit fly thought to be associated with the infestation in this area was made on October 22, 1997.

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) 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 be 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 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 Los Angeles County, CA. Within this regulated area, there are approximately 804 small entities that may be affected by this rule. These include 1 farmers' market, 2 community gardens, 298 distributors, 1 food bank, 440 fruit sellers, 5 growers, 4 haulers, 27 nurseries, 11 packers, 7 processors, 1 swap meet, and 7 transient load carriers. These 804 entities comprise less than 1 percent of the total number of similar entities operating in the State of California. Additionally, 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 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 document 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, Incorporation by reference, 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), the entry for California is amended by removing the entry for Los Angeles County.

Done in Washington, DC, this 13th day of August 1998.

**Joan M. Arnoldi,**

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

[FR Doc. 98–22459 Filed 8–19–98; 8:45 am]

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#### **DEPARTMENT OF AGRICULTURE**

#### **Animal and Plant Health Inspection Service**

#### **7 CFR Part 301**

[Docket No. 97–056–15]

#### **Mediterranean Fruit Fly; Removal of Quarantined Area**

**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 removing the quarantined area in Lake and Marion Counties, FL, from the list of quarantined areas. The quarantine was necessary to prevent the spread of Medfly to noninfested areas of the United States. We have determined that the Mediterranean fruit fly has been eradicated from this area and that restrictions on the intrastate and interstate movement of regulated articles from this area are no longer necessary. This action relieves unnecessary restrictions on the intrastate and interstate movement of regulated articles from this area.

**DATES:** Interim rule effective August 13, 1998. Consideration will be given only to comments received on or before October 19, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97–056–15, 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. 97–056–15. 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 (contained in 7 CFR 301.78 through 301.78–10 and referred to below as the regulations) restrict the movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since an initial finding of Medfly infestation in a portion of Dade County, FL, in April 1998, the quarantined areas in Florida have included portions of Dade, Highlands, Lake, Manatee, and Marion Counties.

In an interim rule effective on April 17, 1998, and published in the **Federal Register** on April 23, 1998 (63 FR 20053–20054, Docket No. 98–046–1), we added a portion of Dade County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a second interim rule effective on May 5, 1998, and published in the **Federal Register** on May 11, 1998 (63 FR 25748–25750, Docket No. 97–056–11), we expanded the quarantined area in Dade County, FL. In a third interim rule effective May 13, 1998, and published in the **Federal Register** on May 19, 1998 (63 FR 27439–27440, Docket No. 97–056–12), we added a portion of Lake and Marion Counties, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a fourth interim rule effective on June 5, 1998, and published in the **Federal Register** on June 11, 1998 (63 FR 31887–31888, Docket No. 98–056–13), we added a portion of Manatee County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area. In a fifth interim rule effective August 7, 1998, we added a portion of Highlands County, FL, to the list of quarantined areas and restricted the intrastate and interstate movement of regulated articles from the quarantined area.

We have determined, based on trapping surveys conducted by the