

Animal and Plant Health Inspection Service (APHIS) and Florida State and county agency inspectors, that the Medfly has been eradicated from the quarantined area in a portion of Lake and Marion Counties, FL. The last finding of Medfly thought to be associated with the infestation in that portion of Lake and Marion Counties, FL, was June 17, 1998. Since that time, no evidence of infestation has been found in this area. We are, therefore, removing that portion of Lake and Marion Counties, FL, from the list of areas in § 301.78-3(c) quarantined because of the Medfly. Portions of Dade, Highlands, and Manatee Counties remain quarantined.

#### 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. The portion of Lake and Marion Counties, FL, affected by this document was quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly has been eradicated from this area, and because the continued quarantined status of that portion of Lake and Marion Counties, FL, would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve 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 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**. 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 interim rule amends the Medfly regulations by removing a portion of Lake and Marion Counties, FL, from quarantine for Medfly. This action affects the intrastate and interstate movement of regulated articles from this area. There are approximately 85 entities that could be affected, including

15 commercial growers, 1 transportation terminal, 8 fruit stands, 5 flea markets, 5 processing plants, 1 farmer's market, 25 nurseries, 10 apiaries, 12 mobile vendors, and 3 food stores. The number of these entities that meet the U.S. Small Business Administration's (SBA) 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 85 entities are small in size, since the overwhelming majority of businesses in Florida, as well as the rest of the United States, are small entities by SBA standards.

The effect of this action on small entities should be minimally positive, as they will no longer be required to treat articles to be moved intrastate and interstate for Medfly.

Therefore, termination of the quarantine of that portion of Lake and Marion Counties, FL, should have a minimal economic effect on the small entities operating in this area. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

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 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).

#### § 301.78-3 [Amended]

2. In § 301.78-3, paragraph (c), the entry for Florida is amended by removing the entry for Lake and Marion Counties.

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

**Joan M. Arnoldi,**

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

[FR Doc. 98-22456 Filed 8-19-98; 8:45 am]

BILLING CODE 3410-34-P

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 98-083-1]

#### Mediterranean Fruit Fly; Addition to Quarantined Areas

**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 San Diego County, CA, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

**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. 98-083-1, 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. 98-083-1. 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 Programs, 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 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 sort 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.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of Medfly has occurred in a portion of San Diego County, CA.

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 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 four-and-one-half miles from the detection sights. 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 patterns 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 these criteria and the recent Medfly findings described above, we are amending § 301.78-3 by adding a portion of San Diego County, CA, to the list of quarantined areas. The new quarantined area is described in the rule portion of this document.

**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 this action 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**. The document will include a discussion of any comments we received 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 amends the Medfly regulations by adding a portion of San Diego County, CA, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Medfly into noninfested areas of the United States.

This rule also restricts the interstate movement of regulated articles from the quarantined area of San Diego County, CA. We estimate that there are 26 entities in the quarantined area of San Diego County, CA, that sell, process, handle, or move regulated articles. This estimate includes 18 fruit sellers and 8 nurseries. The number of these entities

that meet the U.S. Small Business Administration's (SBA) 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 these entities are small in size, since the overwhelming majority of businesses in California, as well as the rest of the United States, are small entities by SBA standards.

Few, if any, of the 26 entities will be significantly affected by the quarantine action taken in this interim rule because few of those entities move regulated articles outside the State of California during the normal course of their business. Nor do consumers of products purchased from those entities generally move those products interstate. The effect on any small entities that do move regulated articles interstate from the quarantined area 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 costs. Also, many of those small entities sell other items in addition to regulated articles, so the effect, if any, of the interim rule should 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.

**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 of 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, 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).

2. In § 301.78–3, paragraph (c) is amended by adding an entry for San Diego County, CA, in alphabetical order, to read as follows:

#### § 301.78–3 Quarantined areas.

\* \* \*

(c) \* \* \*

#### California

**San Diego County.** That portion of San Diego County in the La Jolla area bounded by a line beginning at the intersection of North Torrey Pines and La Jolla Village Drive; then east along La Jolla Village Drive to Genesee Avenue; then southeast along Genesee Avenue to State Highway 274 (Balboa Avenue); then southwest along State Highway 274 (Balboa Avenue) to Clairemont Drive; then southwest along Clairemont Drive to Interstate Highway 5; then south along Interstate Highway 5 to Sea World Drive; then southwest along Sea World Drive to Sunset Cliffs Boulevard; then southwest along Sunset Cliffs Boulevard to West Point Loma Boulevard; then northwest along West Point Loma Boulevard to Voltaire Street; then west along Voltaire Street to the Pacific Ocean coastline; then north along the Pacific Ocean coastline to Scripps Pier; then east along an imaginary line to the intersection of Biological Grade and La Jolla Shores Drive; then northeast along La Jolla Shores Drive to North Torrey Pines; then south along North Torrey Pines to the point of beginning.

\* \* \*

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

**Joan M. Arnoldi,**

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

[FR Doc. 98–22457 Filed 8–19–98; 8:45 am]

BILLING CODE 3410–34–P

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 920

[Docket No. FV98–920–3 IFR]

#### Kiwifruit Grown in California; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule decreases the assessment rate and changes the assessable unit from \$0.0225 per tray or tray equivalent to \$0.05 per 22-pound volume fill container or equivalent of kiwifruit established for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1998–99 and subsequent fiscal periods. The assessment rate of \$0.0225 per tray or tray equivalent approximates \$0.0675 per 22-pound volume fill container. Thus, the assessment rate of \$0.05 per 22-pound volume fill container is less than the assessment rate currently in

effect. The Committee is responsible for local administration of the marketing order which regulates the handling of kiwifruit grown in California.

Authorization to assess kiwifruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective August 21, 1998.

Comments received by October 19, 1998, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Marketing Assistant or Rose M. Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order No. 920, as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the “order.” The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now