

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 02-129-4]

#### Mexican Fruit Fly; 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 a portion of San Diego County, CA, from the list of regulated areas and by removing restrictions on the interstate movement of regulated articles from this area. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. We have determined that the Mexican fruit fly has been eradicated from this part of San Diego County, CA, and that the quarantine and restrictions are no longer necessary. This part of San Diego County, CA, was the only area in California quarantined for the Mexican fruit fly.

**DATES:** This interim rule was effective October 22, 2003. We will consider all comments that we receive on or before December 29, 2003.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-129-4, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-129-4. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your

comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-129-4" on the subject line.

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. Stephen Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1231; (301) 734-8247.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Mexican fruit fly (*Anastrepha ludens*) is a destructive pest of citrus and many 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), were established to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The regulations impose restrictions on the interstate movement of regulated articles from the regulated areas.

In an interim rule effective on January 15, 2003, and published in the **Federal Register** on January 21, 2003 (68 FR 2679-2680, Docket No. 02-129-1), we amended the regulations by adding a portion of San Diego County, CA, as a regulated area and restricted the interstate movement of regulated articles from that area. In a second interim rule effective on March 4, 2003, and published in the **Federal Register** on March 10, 2003 (68 FR 11311-11313, Docket No. 02-129-3), we amended the regulations by adding an additional

portion of San Diego County, CA, to the list of regulated areas.

Based on 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. The last finding of Mexican fruit fly in the San Diego County, CA, regulated area was May 20, 2003.

Since then, no evidence of Mexican fruit fly infestation has been found in this area. Based on our experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Mexican fruit fly no longer exists in San Diego County, CA. Therefore, we are removing the county from the list of regulated areas in § 301.64-3. With the removal of San Diego County, CA, from that list, there are no longer any areas in the State of California quarantined for the Mexican fruit fly.

#### Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. A portion of San Diego County, CA, was quarantined due to the possibility that the Mexican fruit fly could spread from those areas to noninfested areas of the United States. Since we have concluded that the Mexican fruit fly no longer exists in that portion of San Diego County, CA, immediate action is warranted to remove the area from the list of regulated areas and to relieve the restrictions on the interstate movement of regulated articles from that area. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). 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.

**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 under Executive Order 12866.

This action amends the Mexican fruit fly regulations by removing a portion of San Diego County, CA, from the list of regulated areas.

We expect that the effect of this interim rule will be minimal. Small entities located within the regulated area that sell regulated articles do so primarily for local intrastate, not interstate, movement, so the effect, if any, of this rule on these entities appears likely to be minimal. In addition, the effect on any small entities that may move regulated articles interstate has been minimized during the quarantine period by the availability of various treatments that allow these small entities, in most cases, to move regulated articles interstate with very little additional cost. Thus, just as the interim rules establishing the regulated area in San Diego County, CA, had little effect on the small growers in the area, the lifting of the quarantine in the current interim rule will also have little effect.

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 interim 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, 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. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

**§ 301.64–3 [Amended]**

■ 2. In § 301.64–3, paragraph (c) is amended by removing the entry for “California”.

Done in Washington, DC, this 22nd day of October, 2003.

**Kevin Shea,**

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

[FR Doc. 03–27149 Filed 10–27–03; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF AGRICULTURE****Commodity Credit Corporation**

**7 CFR Parts 1411, 1439, 1447, 1464, 1469, 1476, 1477, 1478 and 1479**

**Farm Service Agency**

**7 CFR Parts 759, 777, and 783**

**RIN 0560–AH04**

**Removal of Obsolete Regulations**

**AGENCY:** Commodity Credit Corporation; Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action removes regulations rendered obsolete by expiration of their statutory authority and the ending of their respective programs. There are no impacts on past or current program operations.

**EFFECTIVE DATE:** October 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tom Witzig, Director, Regulatory Review Group, Farm Service Agency, USDA, STOP 0540, 1400 Independence Avenue, SW., Washington, DC 20250–0540; Telephone: (202) 205–5851; e-mail: [tom.witzig@usda.gov](mailto:tom.witzig@usda.gov).

**SUPPLEMENTARY INFORMATION:****Discussion of Final Rule**

This rule removes regulations rendered obsolete by expiration of their statutory authority and the ending of their respective programs. Removal of the regulations will not impact any remaining disputes, issues or other matters regarding those programs, and the removed regulations remain in effect for such matters. The regulations being removed are:

**7 CFR Part 759—Small Hog Operation Program**

The Small Hog Operation Program was established to provide benefits to hog producers under clause (3) of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). The program was implemented during calendar year 1998 for small hog producers who marketed hogs during the period July 1, 1998, through December 31, 1998.

**7 CFR Part 777—Disaster Payment Program for 1990-Crop Sugarcane, Sugar Beets, Soybeans and Peanuts**

The Disaster Payment Program for 1990-Crop Sugarcane, Sugar Beets, Soybeans and Peanuts was authorized by section 201(k) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446), and the Dire Emergency Supplemental Appropriations Act for Fiscal Year 1990 (Pub. L. 101–302; 104 Stat. 213). The program provided assistance to producers who suffered a loss of production of their 1990 crop as a result of a natural disaster in 1989.

**7 CFR Part 783—1997 Tree Assistance Program**

The Tree Assistance Program was authorized by the Act Making Emergency Supplemental Appropriations for Recovery from Natural Disasters for the Fiscal Year Ending September 30, 1997 (Pub. L. 105–18; 111 Stat. 158). The program provided assistance to owners of trees damaged by natural disasters occurring from October 1, 1996, through September 30, 1997.

**7 CFR Part 1411—Oilseeds Program**

The Oilseeds Program was authorized by section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 358). The program made payments to producers who planted eligible oilseeds in 2000.