

# Rules and Regulations

Federal Register

Vol. 63, No. 35

Monday, February 23, 1998

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. 97-073-4]

#### Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

**SUMMARY:** We are amending the Oriental fruit fly regulations by removing the quarantine on a portion of Los Angeles County, CA, and by removing the restrictions on the interstate movement of regulated articles from that area. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from this portion of Los Angeles County and that the quarantine and restrictions are no longer necessary.

**DATES:** Interim rule effective February 18, 1998. Consideration will be given only to comments received on or before April 24, 1998.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-073-4, 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. 97-073-4. 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.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, and vegetables. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks that can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93-10 (referred to below as the regulations), impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective August 20, 1997, and published in the **Federal Register** on August 26, 1997 (62 FR 45141-45142, Docket No. 97-073-1), we quarantined a portion of Los Angeles County, CA, and restricted the interstate movement of regulated articles from the quarantined area. In a second interim rule effective September 4, 1997, and published in the **Federal Register** on September 10, 1997 (62 FR 47551-47553, Docket No. 97-073-2), we quarantined an additional area in Los Angeles County, CA. In a third interim rule effective October 7, 1997, and published in the **Federal Register** on October 14, 1997 (62 FR 53223-53225, Docket No. 97-073-3), we expanded the second quarantined area to include new areas found to be infested with Oriental fruit fly.

Based on trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the portion of Los Angeles County, CA, that was quarantined on August 20, 1997. The last finding of Oriental fruit fly in this area was September 22, 1997.

Since then, no evidence of Oriental fruit fly infestations has been found in this area. Based on Departmental experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Oriental fruit fly no longer exists in this portion of Los Angeles County, CA. Therefore, we are removing this portion of Los Angeles County, CA, from the list of quarantined areas in § 301.93-3(c). One other portion of Los Angeles County remains on the list of quarantined areas.

##### 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 an unnecessary regulatory burden on the public. A portion of Los Angeles County, CA, was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, immediate action is necessary to remove part of the quarantine on Los Angeles County, CA, and to relieve the restrictions on the interstate movement of regulated articles from that part.

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 it 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**. It 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 relieves restrictions on the interstate movement of regulated articles from a portion of Los Angeles County, CA.

Within the previously quarantined portion of Los Angeles County, there are approximately 143 entities that will be affected by this rule. All would be considered small entities. These include 2 farmers' markets, 1 community garden, 4 distributors, 93 fruit sellers, 7 vendors, 2 growers, 2 haulers, 27 nurseries, 2 packers, 2 processors, and 1 swap meet. These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate, movement so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that did 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.

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

Accordingly, 7 CFR part 301 is amended 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 § 301.93–3, paragraph (c) is revised to read as follows:

#### § 301.93–3 Quarantined areas.

\* \* \* \* \*

(c) \* \* \*

California

*Los Angeles County.* That portion of Los Angeles County beginning at the intersection of Interstate Highway 10 and Gateway Boulevard; then east along Interstate Highway 10 to its second intersection with National Boulevard; then east along National Boulevard to Jefferson Boulevard; then east along Jefferson Boulevard to La Cienega Boulevard; then south along La Cienega Boulevard to Rodeo Road; then east along Rodeo Road to Martin Luther King, Jr. Boulevard; then southeast along Martin Luther King, Jr. Boulevard to Crenshaw Boulevard; then south along Crenshaw Boulevard to Slauson Avenue; then east along Slauson Avenue to Vermont Avenue; then south along Vermont Avenue to Florence Avenue; then east along Florence Avenue to Interstate Highway 110; then south along Interstate Highway 110 to Manchester Avenue; then east along Manchester Avenue to Avalon Boulevard; then south along Avalon Boulevard to Rosecrans Avenue; then west along Rosecrans Avenue to Interstate Highway 110; then south along Interstate Highway 110 to State Highway 91 (Artesia Boulevard); then west along State Highway 91 (Artesia Boulevard) to Western Avenue; then south along Western Avenue to 190th Street; then west along 190th Street to Anita Street; then southwest along Anita Street to Herondo Street; then southwest along Herondo Street to Hermosa Avenue; then west along an imaginary line to the Pacific Ocean coastline; then northwest along the Pacific Ocean coastline to a point due west of the west end of Ocean Park Boulevard; then east along an imaginary line drawn from that point to the west end of Ocean Park Boulevard; then northeast along Ocean Park Boulevard to Gateway Boulevard; then northeast along Gateway Boulevard to the point of beginning.

Done in Washington, DC, this 18th day of February 1998.

**Craig A. Reed,**

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

[FR Doc. 98–4491 Filed 2–20–98; 8:45 am]

BILLING CODE 3410–34–P

### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

#### 7 CFR PART 1499

RIN 0551–0035

#### Foreign Donation of Agricultural Commodities

**AGENCY:** Commodity Credit Corporation, USDA.

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

**SUMMARY:** This interim rule amends regulations governing procedures for procuring ocean transportation for agricultural commodities provided under section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985. These changes are consistent with the procedures applicable to title I of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480).

**DATES:** This interim rule is effective February 23, 1998. Comments must be received in writing by April 24, 1998 to be assured of consideration.

**ADDRESSES:** Send comments to the Director, Commodity Credit Corporation, Program Support Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Avenue, S.W., Stop 1031, Washington, D.C. 20250–1031; telephone (202) 720–3573.

**FOR FURTHER INFORMATION CONTACT:** Ira Branson, Director, Commodity Credit Corporation Program Support Division, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Avenue, S.W., Stop 1031, Washington, D.C. 20250–1031; telephone (202) 720–3573.

**SUPPLEMENTARY INFORMATION:** This interim rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this interim rule:

(1) Would have an annual effect on the economy of less than \$100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;