

**DATES:** This interim rule was effective May 2, 2003. We will consider all comments that we receive on or before July 7, 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. 03-032-1, 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. 03-032-1. 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. 03-032-1" 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 A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

We are amending the "Domestic Quarantine Notices" in 7 CFR part 301 by adding a new subpart, "Sapote Fruit Fly" (§§ 301.99 through 301.99-10, referred to below as the regulations). The regulations quarantine part of Hidalgo County, TX, because of the sapote fruit fly and restrict the interstate movement of regulated articles from the quarantined area.

The sapote fruit fly (*Anastrepha serpentina*) is a destructive pest of fruits and vegetables, including apples, avocados, grapefruit, mangoes, peaches, pears, and tangerines. This pest can cause serious economic losses by lowering the yield and quality of these fruits and vegetables and, in some cases, by damaging seedlings and young

plants. Heavy infestations can result in the complete loss of these crops.

Recent trapping surveys in the lower Rio Grande valley in Texas have established that part of Hidalgo County, TX, is infested with sapote fruit fly. Officials of the Animal and Plant Health Inspection Service (APHIS) and State and county agencies in Texas have begun an intensive survey and eradication program in the infested area. Texas has restricted the intrastate movement of certain articles from the infested area to prevent the spread of the sapote fruit fly within Texas. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the infested area to prevent the spread of the sapote fruit fly to noninfested areas of the United States. This interim rule establishes those Federal regulations, which are described below.

##### *Section 301.99—Restrictions on Interstate Movement of Regulated Articles*

Section 301.99 prohibits the interstate movement of regulated articles from quarantined areas except in accordance with the regulations.

##### *Section 301.99-1—Definitions*

Section 301.99-1 contains definitions of the following terms: *Administrator, Animal and Plant Health Inspection Service, certificate, compliance agreement, core area, day degrees, departmental permit, dripline, infestation, inspector, interstate, limited permit, moved (move, movement), person, Plant Protection and Quarantine, quarantined area, regulated article, sapote fruit fly, and State.*

##### *Section 301.99-2—Regulated Articles*

Certain articles present a significant risk of spreading the sapote fruit fly if they are moved from quarantined areas without restrictions. We call these articles regulated articles. Paragraphs (a) through (e) of § 301.99-2 list the following as regulated articles:

- The sapote fruit fly;
- Fruits and vegetables that are not canned or dried or that are not frozen below -17.8 °C (0 °F);
- Soil within the dripline of plants that are producing or have produced those fruits or vegetables; and
- Any other product, article, or means of conveyance that an inspector determines to present a risk of spreading the sapote fruit fly after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations.

The last item listed above, which provides for the designation of "any other product, article, or means of conveyance" as a regulated article, is intended to address the risks presented by, for example, a truck with sapote fruit fly pupae in the cracks of its floorboards, thus enabling an inspector to designate that truck as a regulated article in order to ensure that any necessary risk-mitigating measures are carried out.

##### *Section 301.99-3—Quarantined Areas*

Paragraph (a) of § 301.99-3 provides the criteria for the inclusion of States, or portions of States, in the list of quarantined areas. Under these criteria, any State or portion of a State in which the sapote fruit fly is found by an inspector, or in which the Administrator has reason to believe that the sapote fruit fly is present, will be listed as a quarantined area. These criteria also provide that an area will be designated as a quarantined area when the Administrator considers it necessary due to the area's inseparability for quarantine enforcement purposes from localities in which the sapote fruit fly has been found.

Paragraph (a) of § 301.99-3 also provides that we will designate less than an entire State as a quarantined area only if we determine that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed on the interstate movement of regulated articles and that the designation of less than an entire State as a quarantined area will prevent the interstate spread of the sapote fruit fly. These determinations would indicate that infestations are confined to the quarantined areas and eliminate the need for designating an entire State as a quarantined area.

The boundary lines that delimit the portion of a State that is designated as a quarantined area are set up approximately 4.5 miles from the locations where sapote fruit fly has been detected. The 4.5 mile radius distance for regulated areas from the trapping sites for sapote fruit fly is based upon several factors, including: Previous experience with fruit fly eradication programs, estimated efficacy of trapping grids, available data on natural dispersal, and recommendations from fruit fly experts familiar with the biology and behavior of the sapote fruit fly. The boundary lines may vary due to factors such as the location of sapote fruit fly host material, the location of transportation centers such as bus stations and airports, the pattern of persons moving in that State, the