

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

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 to 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 December 13, 2002, and published in the **Federal Register** on December 23, 2002 (67 FR 78127-78128, Docket No. 02-121-1), we amended the regulations by adding the Monterey Park area of Los Angeles County, CA, as a regulated area. In a second interim rule effective on January 17, 2003, and published in the **Federal Register** on January 24, 2003 (68 FR 3373-3374, Docket No. 02-121-2), we amended the regulations by expanding the regulated area to include the South Pasadena area of Los Angeles County, CA.

Based on trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal Plant Health Inspection Service, we have determined that the Mexican fruit fly has been eradicated from the Monterey Park and South Pasadena areas of Los Angeles County, CA. The last findings of Mexican fruit fly in the Los Angeles County, CA, regulated area was October 12, 2002, in Monterey Park and December 2, 2002, in South Pasadena. Since then, no evidence of Mexican fruit fly infestation has been found in the area.

Accordingly, we are amending the regulations in § 301.64-3 by removing that portion of Los Angeles County, CA, from the list of areas regulated for the Mexican fruit fly.

Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. A portion of Los Angeles County, CA, was regulated to prevent the Mexican fruit fly from spreading to noninfested areas of the United States. Since we have concluded that the Mexican fruit fly no longer exists in that

portion of Los Angeles County, immediate action is warranted to remove the area from the list of regulated areas and to relieve 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 rule 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 rule amends the Mexican fruit fly regulations by removing a portion of Los Angeles County, CA, from the list of regulated areas. County records indicate that within that area there are approximately 389 small entities that may be affected by this rule. These include 351 fruit sellers, 3 growers, 33 nurseries, 1 certified farmers' market, and 1 swapmeet. These 389 entities comprise less than 1 percent of the total number of similar entities operating in the State of California.

We expect that the effect of this interim rule on the small entities referred to above 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 previous interim rules establishing the regulated area in Los Angeles County, CA, had little effect on the small growers in the area, the lifting of the quarantine in this 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, under the heading "California", the entry for Los Angeles County.

Done in Washington, DC, this 26th day of August 2003.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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