

The second difference cited above pertains to the prescribed irradiation dose rate. The commodity-generic dose rate established by ARS for Mexican fruit fly is 150 Gray (15 krad), so we have established 150 Gray as the prescribed dose rate in the Mexican fruit fly regulations, rather than the 225 Gray (22.5 krad) prescribed in § 301.78–10(c) of the Mediterranean fruit fly regulations.

The remaining provisions of § 301.78–10(c) of the Mediterranean fruit fly regulations—*i.e.*, those provisions regarding approved facilities, treatment monitoring, packaging, dosimetry systems, certification based on treatment, recordkeeping, requests for approval and inspection of facilities, denial and withdrawal of approval, and the USDA's non-responsibility for loss or damage resulting from treatment—have been carried over to § 301.64–10(g) of the Mexican fruit fly regulations and serve the same purpose as in § 301.78–10(c).

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to provide an additional option for qualifying regulated articles for movement from regulated areas. 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 allowing the use of irradiation as a treatment for fruits listed as regulated articles. This action will provide an additional option for qualifying those regulated articles for movement from regulated areas.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are

currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

#### **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**

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0215 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 02–129–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 02–129–2 and send your comments within 60 days of publication of this rule.

This interim rule allows for the use of irradiation as a treatment for those fruits that are listed as regulated articles in § 301.64–2(a) of the regulations. This action provides an additional option for qualifying regulated articles for movement from regulated areas. Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under § 301.64–6. The compliance agreement is a written

agreement between a person engaged in those previously mentioned activities and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions set forth in § 301.64–6. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average .6399 hours per response.

*Respondents:* Growers and State plant regulatory officials.

*Estimated annual number of respondents:* 722.

*Estimated annual number of responses per respondent:* 1.

*Estimated annual number of responses:* 722.

*Estimated total annual burden on respondents:* 462 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

#### **Government Paperwork Elimination Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information