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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97-056-7]

Mediterranean Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL, from the list of quarantined areas. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that restrictions are no longer necessary. This action relieves unnecessary restrictions on the interstate movement of regulated articles from these areas.

DATES: Interim rule effective October 15, 1997. Consideration will be given only to comments received on or before December 22, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97-056-7, 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. 97-056-7. 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; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations (contained in 7 CFR 301.78 through 301.78-10 and referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since an initial finding of Medfly infestation in Hillsborough County, FL, in June 1997, quarantined areas have included all or portions of Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL.

In an interim rule effective on June 16, 1997, and published in the **Federal Register** on June 20, 1997 (62 FR 33537-33539, Docket No. 97-056-2), we added a portion of Hillsborough County, FL, to the list of quarantined areas and restricted the interstate movement of regulated articles from that quarantined area. In a second interim rule effective on July 3, 1997, and published in the **Federal Register** on July 10, 1997 (62 FR 36976-36978, Docket No. 97-056-3), we expanded the quarantined area in Hillsborough County, FL, and added areas in Manatee and Polk Counties, FL, to the list of quarantined areas. In a third interim rule effective on August 7, 1997, and published in the **Federal Register** on August 13, 1997 (62 FR 43269-43272, Docket No. 97-056-4), we further expanded the quarantined area by adding new areas of Hillsborough County, FL, and an area in Orange County, FL, to the list of quarantined areas. In that third interim rule, we also revised the entry for Manatee County, FL, to make the boundary lines of the

quarantined area more accurate. In a fourth interim rule effective on September 4, 1997, and published in the **Federal Register** on September 10, 1997 (62 FR 47553-47558, Docket No. 97-056-5), we quarantined a new area in Polk County, FL, and an area in Sarasota County, FL.

We have determined, based on trapping surveys conducted by the Animal and Plant Health Inspection Service (APHIS) and Florida State and county agency inspectors, that the Medfly has been eradicated from all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL. The last finding of the Medfly thought to be associated with the infestation in these areas occurred on July 24, 1997. Since then, no evidence of infestation has been found in these areas. We are, therefore, removing these areas from the list of areas in § 301.78-3(c) quarantined because of the Medfly. As a result of this action, there are no longer any quarantined areas in Manatee, Orange, and Sarasota Counties, FL. Portions of Hillsborough and Polk Counties remain quarantined.

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. The areas in Florida affected by this document were quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly has been eradicated from these areas, and because the continued quarantine status of these areas would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

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 this rule 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 amends the Medfly regulations by removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL. This action affects the interstate movement of regulated articles from these areas. There are approximately 592 small entities that could be affected, including 9 transportation terminals, 223 fruit stands, 28 flea markets, 4 processing plants, 25 farmers' markets, 189 nurseries (primarily retail), 149 mobile produce vendors, 113 food stores, 2 fruit shippers, 3 commercial growers, 6 garbage service firms, 1 vegetable packinghouse, and 1 hauler/harvester.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of Florida. In addition, most of these small entities sell regulated articles primarily for local intrastate, not interstate movement, and the sale of these articles would not be affected by this interim regulation.

Therefore, removing all or portions of the quarantined areas in Hillsborough, Manatee, Orange, Polk, and Sarasota Counties, FL, should have a minimal economic effect on the small entities operating there. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

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 rule 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 § 301.78–3, paragraph (c), the entry for Florida is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

FLORIDA

Hillsborough County. That portion of Hillsborough County beginning at the intersection of I–75 and the Hillsborough/Pasco County line; then west along the Hillsborough/Pasco County line to the section line dividing sections 5 and 6, T. 27 S., R. 18 E.; then south along the section line dividing sections 5 and 6, T. 27 S., R. 18 E. to Veterans Expressway; then south along Veterans Expressway to Erlich Road; then west along Erlich Road to Gunn Highway; then north along Gunn Highway to Mobley Road; then west along Mobley Road to Racetrack Road; then southwest along Racetrack Road to the Pinellas/Hillsborough County line; then south along the Pinellas/Hillsborough County line to I–275; then east along I–275 to the western most land mass at the eastern end of the Howard Franklin Bridge; then along an imaginary line along the shoreline of the Old Tampa Bay, Tampa Bay, and Hillsborough Bay (including the Interbay Peninsula, Davis Island, Harbour Island, Hooker's Point, and Port Sutton) to the northern shoreline of the Alafia River's extension; then east along the northern shoreline of the Alafia River to I–75; then north along I–75 to the point of beginning.

Polk County. That portion of Polk County beginning at the intersection of State Highway 60 (Van Fleet Drive) and West Van Fleet Drive (not Business 60); then east along State Highway 60 (Van Fleet Drive) to U.S. Highway 17; then north along U.S. Highway 17 to the section line dividing sections 27 and 28, T. 29 S., R. 25 E.; then north along the section line dividing sections 27 and 28,

T. 29 S., R. 25 E. to Thornhill Road; then north along Thornhill Road to State Highway 540; then west along State Highway 540 to the section line dividing sections 31 and 32, T. 28 S., R. 25 E.; then north along the section line dividing sections 31 and 32, T. 28 S., R. 25 E. to State Highway 542; then west along State Highway 542 to State Highway 37 (South Florida Avenue); then south along State Highway 37 (South Florida Avenue) to State Highway 572 (Drane Field Road); then west along State Highway 572 (Drane Field Road) to Harden Boulevard; then south along Harden Boulevard to Lake Miriam Drive; then west along Lake Miriam Drive to Old State Road 37; then south along Old State Road 37 to State Highway 37; then south along State Highway 37 to State Highway 60; then east along State Highway 60 to the point of beginning.

Done in Washington, DC, this 15th day of October 17, 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27813 Filed 10–20–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–102–1]

Mediterranean Fruit Fly; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Los Angeles County, CA, to the list of quarantined areas, and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the continental United States.

DATES: Interim rule effective October 16, 1997. Consideration will be given only to comments received on or before December 22, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–102–1, 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. 97–102–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW.,