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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1205

Privacy Act Regulations; Correction

AGENCY: Merit Systems Protection Board.

ACTION: Correction of Final Rule.

On September 21, 1999, final rules were published at 64 FR 51043, Privacy Act. In that document, 5 CFR 1205.12 contained two paragraphs (c). This document correctly codifies the paragraph designations in that section.

DATES: Effective date December 21, 1999.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

SUPPLEMENTARY INFORMATION: FR Doc. 99-24552 published in the **Federal Register** of Tuesday, September 21, 1999, revised 5 CFR part 1204. This document corrects § 1205.12 as follows:

PART 1205—PRIVACY ACT REGULATIONS

1. The authority citation for part 1205 continues as follows:

Authority: 5 U.S.C. 552a and 1204.

2. On page 51044, in § 1205.12, the second paragraph (c) is correctly designated as paragraph (d). Corrected designated paragraph (d) reads as follows:

§ 1205.12 Time limits and determinations.

(d) *Determining officials.* The Clerk of the Board, a Regional Director, or a Chief Administrative Judge will make determinations on requests.

Dated: December 13, 1999.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 99-33080 Filed 12-20-99; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99-075-2]

Mexican Fruit Fly; Regulated Areas, Regulated Articles, and Treatments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by adding a portion of San Diego and Riverside Counties, CA, to the list of areas regulated because of the Mexican fruit fly. This action is necessary on an emergency basis to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. This action restricts the interstate movement of regulated articles from the regulated area. We are also amending the regulations to provide for the use of a new alternative chemical treatment for premises and for the use of a cold treatment for citrons, litchis, longans, persimmons, and white zapotes, which are all regulated articles. These new treatment options will minimize the effect of restrictions on the interstate movement of regulated articles from regulated areas. We are also removing kumquats from the list of regulated articles. We have determined that kumquats do not pose a risk of hosting the Mexican fruit fly.

DATES: This interim rule was effective December 14, 1999. We invite you to comment on this docket. We will consider all comments that we receive by February 22, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-075-2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 99-075-2.

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 rules, are available on the Internet at <http://www.aphis.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), 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 and 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 regulated areas.

Section 301.64-3 provides that the Deputy Administrator for Plant Protection and Quarantine (PPQ), Animal and Plant Health Inspection Service (APHIS), shall list as a regulated area each quarantined State, or each portion of a quarantined State, in which the Mexican fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe the Mexican fruit fly is present, or that the Deputy Administrator considers necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs.

Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that the State has adopted and is enforcing a quarantine or regulations that impose restrictions on the intrastate movement of regulated articles that are substantially the same

as those that are imposed with respect to the interstate movement of the articles and the designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

In an interim rule effective September 22, 1999, and published in the **Federal Register** on September 28, 1999 (64 FR 52211–52212, Docket No. 99–075–1), we designated an area in San Bernardino and Riverside Counties, CA, as a regulated area.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of PPQ reveal that a portion of San Diego and Riverside Counties, CA, is infested with the Mexican fruit fly. Specifically, since October 12, 1999, inspectors have detected Mexican fruit flies in the Fallbrook area of San Diego and Riverside Counties, CA.

Accordingly, to prevent the spread of the Mexican fruit fly to noninfested areas of the United States, we are amending the regulations in § 301.64–3(c) by designating an area in San Diego and Riverside Counties, CA, as a regulated area. The regulated area is described in the rule portion of this document.

There does not appear to be any reason to designate any other portion of the quarantined State of California as a regulated area. Officials of State agencies of California are conducting an intensive Mexican fruit fly eradication program in the regulated areas in California. Also, California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of certain articles from the regulated areas that are substantially the same as those imposed with respect to the interstate movement of regulated articles.

The Mexican fruit fly is not known to occur in the continental United States outside of the regulated areas in California and Texas.

Treatments

Section 301.64–10 of the regulations lists treatments for regulated articles. Regulated articles treated in accordance with this section may be moved interstate from a regulated area to any destination. Section 301.64–10 contains treatments for specified fruits, treatments for soil within the dripline of plants producing specified fruits, and treatments for premises (fields, groves, or areas) that are within a quarantined area but outside the infested core area.

In accordance with § 301.64–10(c), premises that are located within the regulated area but outside the infested

core area, and that produce regulated articles, must receive regular treatments with malathion bait spray. We are amending § 301.64–10(c) to include a new alternative chemical treatment for premises. The new chemical treatment is a spinosad bait spray. Without spinosad bait spray, the only treatment made available by the regulations for premises has been malathion bait spray. Spinosad bait spray must be applied by aircraft or ground equipment at a rate of 0.01 oz of a USDA-approved spinosad formulation and 48 oz of protein hydrolysate per acre. For ground applications, the mixture may be diluted with water to improve coverage.

We are also amending § 301.64–10 to add provisions for cold treatment of citrons, litchis, longans, persimmons, and white zapotes. In the PPQ Treatment Manual, which is incorporated by reference into the Code of Federal Regulations (CFR), we list a cold treatment that is effective for Mexican fruit fly for several commodities. We also want to allow a cold treatment that is not listed in the PPQ Treatment Manual. Therefore, we are adding a new paragraph (f) to § 301.64–10 to state that citrons, litchis, longans, persimmons, and white zapotes may be cold treated in accordance with the PPQ Treatment Manual and in accordance with a treatment schedule described in paragraph (f).

Regulated Articles

Section 301.64–2 of the regulations lists articles that are regulated for the Mexican fruit fly. Kumquats are on the list of regulated articles because kumquats are known hosts to some species of *Anastrepha*. After reviewing scientific data, APHIS has determined that kumquats are not a host to the Mexican fruit fly. Therefore, we are removing kumquats from the list of regulated articles. This action will relieve unnecessary restrictions on the movement of kumquats from regulated areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mexican fruit fly from spreading to noninfested areas of the United States.

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 action effective less than 30

days after publication. 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**. The document 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.

Under the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167), the Secretary of Agriculture is authorized to regulate the interstate movement of articles to prevent the spread of injurious plant pests in the United States.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this interim rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this interim rule.

This action amends the Mexican fruit fly regulations by adding a portion of San Diego and Riverside Counties, CA, to the list of areas regulated because of the Mexican fruit fly. This action is necessary on an emergency basis to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. We are also amending the regulations to provide for the use of a new alternative chemical treatment for premises and for the use of a cold treatment for citrons, litchis, longans, persimmons, and white zapotes, which are regulated articles. This new treatment option will minimize the effect of restrictions on the interstate movement of regulated articles from regulated areas. We are also removing kumquats from the list of regulated articles. We have determined that kumquats do not pose a risk of hosting the Mexican fruit fly.

Newly Regulated Area

This rule restricts the interstate movement of regulated articles from a portion of San Diego and Riverside

Counties, CA. Within the regulated area there are approximately 2,000 growers operating on 11,400 acres (72 square miles), 38 packing houses, 50 fruit sellers, and 2 farmer's markets that may be affected by the regulations. Those entities that move regulated articles interstate will have to comply with the regulations concerning certification and treatment. There are various relatively low cost treatments available, which in most cases will allow interstate movement of regulated articles.

Spinosad Bait Spray

Currently, growers have an option to treat the premises that are within the quarantined area but outside the infested core area and that produce regulated articles with regular treatments of malathion bait spray. This rule provides for the additional treatment alternative of spinosad bait spray for these premises. Growers and nurseries in all regulated areas may be affected by this change. However, because the cost for applying spinosad bait spray is comparable to the cost for applying the currently available malathion bait spray, entities will be little affected.

Cold Treatment

This rule also adds provisions for cold treatment of persimmons, longans, litchis, citrons, and white zapotes to qualify them for interstate movement from the regulated areas. Previously, no treatment was listed in the regulations for these fruits. In the regulated area in 1998, approximately \$860,000 worth of persimmons were grown on 286 acres. We do not have information on the number of growers or value of longans, litchi, citron, or white zapotes grown in the regulated area, but the numbers are likely to be very small.

Cold treatment may take place in a refrigerated container which can be leased for approximately \$65 per day. Using the container for 26 days (20 days of treatment and 6 days of preparation) would cost \$1,690. Assuming that there are 800 flats of persimmons in one of these refrigerated containers, the cold treatment would add \$2.11 to the cost of each flat of persimmons. Cold treatment may also take place at an approved facility, which would likely be less costly. Additionally, cold storage for the preparation of persimmons for market is a common practice; therefore, the treatment may add little additional cost (measures such as closer monitoring of temperature or better sealing of the facility may be required). Cold treatment allows the fruit to be shipped interstate to markets outside the regulated area.

The alternative to this interim rule was to make no changes in the regulations. After consideration, we rejected this alternative because if no action was taken, the Mexican fruit fly would spread to noninfested areas of the continental United States.

This interim rule contains no information collection or recordkeeping requirements.

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 interim 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.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The assessment provides a basis for the conclusion that the methods employed to eradicate the Mexican fruit fly will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection 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 copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In

addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

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. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.64–2 [Amended]

2. In § 301.64–2, paragraph (a), the regulated article “Kumquat (*Fortunella japonica*)” is removed.

3. In § 301.64–3, paragraph (c), the entry for California is amended by adding an entry for San Diego and Riverside Counties, in alphabetical order, to read as follows:

§ 301.64–3 Regulated areas.

* * * * *

(c) * * *

California

* * * * *

San Diego and Riverside Counties. That portion of San Diego and Riverside Counties in the Fallbrook area bounded by a line drawn as follows: Beginning at the intersection of Rainbow Glen Road and Interstate Highway 15; then southwest along Interstate Highway 15 to Old Highway 395; then west and south along Old Highway 395 to Canonita Drive; then west along Canonita Drive to Tecalote Drive; then south along Tecalote Drive to Puerta Del Mundo; then northwest along Puerta Del Mundo to Peony Drive; then west along Peony Drive to Citrus Lane; then south along Citrus Lane to Citrus Drive; then south along Citrus Drive to Wilt Road; then west along Wilt Road to Laketree Drive; then southwest along Laketree Drive to Gird Road; then south along Gird Road to Knottwood Way; then west along Knottwood Way to Genista Place; then south along Genista Place to Brushwood Lane; then west and south along Brushwood Lane to Staghorn Court; then southwest along an imaginary line to the intersection of Linda Vista Drive and Via Monserate; then west along Via Monserate to Ramona Drive; then south along Ramona Drive to Hillrise Road; then west along Hillrise Road to La Canada Road; then west along La Canada Road to South Mission

Road; then southwest along an imaginary line to the east end of Shady Hill Lane; then west along Shady Hill Lane to Gateview Drive; then southwest along Gateview Drive to Olive Hill Road; then north along Olive Hill Road to Morro Hills Road; then west along Morro Hills Road to Sleeping Indian Road; then west along Sleeping Indian Road to Conejo Road; then northwest along an imaginary line to the intersection of Fallbrook Road and Vandergrift Boulevard; then west along Vandergrift Boulevard to Camp De Luz Road; then north along Camp De Luz Road to the intersection of the boundary line for the Camp Pendleton Marine Corps Base and De Luz Road; then northeast along De Luz Road to Daily Road; then northeast along Daily Road to Lynda Road; then northeast along Lynda Road to Sandia Creek Drive; then east and south along Sandia Creek Drive to Rock Mountain Drive; then east along Rock Mountain Drive to the Riverside/San Diego County line; then southeast along an imaginary line to the intersection of Stage Coach Lane and the Riverside/San Diego County line; then east along the Riverside/San Diego County line to the second unnamed road (near gate); then south along the second unnamed road (near gate) to Rainbow Glen Road; then southeast along Rainbow Glen Road to the point of beginning.

* * * * *

4. Section 301.64-10 is amended as follows:

a. Paragraph (c) is revised to read as set forth below.

b. A new paragraph (f) is added to read as set forth below.

§ 301.64-10 Treatments.

* * * * *

(c) *Premises.* A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with either malathion or spinosad bait spray. These treatments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Mexican fruit fly. Determination of the time period must be based on the day degrees model for Mexican fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 oz of technical grade malathion and 9.6 oz of protein hydrolysate per acre. The spinosad bait spray treatment must be applied by aircraft or ground equipment at a rate of 0.01 oz of a USDA-approved spinosad formulation and 48 oz of protein hydrolysate per acre. For ground applications, the mixture may be diluted with water to improve coverage.

* * * * *

(f) *Citrons, litchis, longans, persimmons, and white zapotes.* Cold treatment in accordance with the PPO Treatment Manual (for full identification of this standard, see § 300.1 of this chapter, "Materials incorporated by reference") and in accordance with the following schedule:

Treatment	Exposure period
33 °F or below	18 days.
34 °F or below	20 days.
35 °F or below	22 days.

Done in Washington, DC, this 14th day of December 1999.

Craig A. Reed,
Administrator, Animal and Plant Health Inspection Service.
 [FR Doc. 99-33059 Filed 12-20-99; 8:45 am]
BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Potato Crop Insurance Certified Seed Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific provisions that amend the Potato Crop Insurance Certified Seed Endorsement. The intended effect of this action is to improve the insurance coverage to better meet the needs of the insured. The changes will be effective for the 2001 and subsequent crop years.

EFFECTIVE DATE: This rule is effective January 20, 2000.

FOR FURTHER INFORMATION CONTACT: Rob Coultis, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO, 64131, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order No. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. chapter 35), the collections of information for this rule have been previously approved by the OMB under control number 0563-0053 through April 30, 2001. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms or information collections cleared under the above-referenced docket.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR