

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 04–106–2]

#### Oriental Fruit Fly; Removal of Quarantined Area

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Oriental fruit fly regulations by removing a portion of Los Angeles County, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from this area. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from this portion of Los Angeles County, CA, and that the quarantine and restrictions are no longer necessary.

**DATES:** This interim rule was effective March 1, 2005. We will consider all comments that we receive on or before May 6, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- **EDOCKET:** Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies) to Docket No. 04–106–2, 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. 04–106–2.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

**Reading Room:** 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.

**Other Information:** You may view APHIS documents published in the **Federal Register** and related information on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wayne D. Burnett, National Fruit Fly Program Manager, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, vegetables, and berries. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective on November 9, 2004, and published in the **Federal Register** on November 16, 2004 (69 FR 67041–67042, Docket No. 04–106–1), we quarantined a portion of Los Angeles County, CA, and restricted the interstate movement of regulated articles from the quarantined area.

Based on trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, we have determined that the Oriental fruit fly has been eradicated from the quarantined portion of Los Angeles County. The last finding of Oriental fruit fly in this quarantined area was August 30, 2004.

Since then, no evidence of Oriental fruit fly infestation has been found in this area. Based on our experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Oriental fruit fly no longer exists in Los Angeles County, CA. Therefore, we are removing the entry for this county from the list of quarantined areas in § 301.93–3(c).

#### Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. A portion of Los Angeles County, CA, was quarantined due to the possibility that the Oriental fruit fly could spread from this area to noninfested areas of the United States. Since we have concluded that the Oriental fruit fly no longer exists in this county, immediate action is warranted to remove the quarantine on Los Angeles County, CA, and to relieve the restrictions on the interstate movement of regulated articles from this 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 action 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 action amends the Oriental fruit fly regulations by removing a portion of Los Angeles County, CA, from the list of quarantined areas.

County records indicate there are approximately 23 nurseries, 27 farmers markets, 4 certified growers, 3 mobile vendors, and 152 fruit sellers within the quarantined portion of Los Angeles County that could be affected by the lifting of the quarantine in this interim rule.

We expect that the effect of this interim rule on the small entities referred to above will be minimal. Small entities located within the quarantined 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 rule establishing the quarantined area in Los Angeles County, CA, had little effect on the small entities in the area, the lifting of the quarantine in the current 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).

#### § 301.93–3 [Amended]

■ 2. In § 301.93–3, paragraph (c) is amended by removing, under the heading “CALIFORNIA”, the entry for Los Angeles County.

Done in Washington, DC, this 1st day of March 2005.

**Elizabeth E. Gaston,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 05–4376 Filed 3–4–05; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

##### Rural Housing Service

#### 7 CFR Part 1924

RIN 0575–AC60

#### Withdrawal of Direct Final Rule for Surety Requirements

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** The Rural Housing Service (RHS) is withdrawing the direct final rule to change the threshold for surety requirements, published on January 7, 2005 (70 FR 1325–26). RHS stated in the direct final rule that if it received adverse comments by March 8, 2005, the agency would publish a timely notice of withdrawal in the **Federal Register**. RHS subsequently received adverse comments and, therefore, is withdrawing the direct final rule.

**DATES:** *Effective Date:* The direct final rule published on January 7, 2005, at 70 FR 1325–26 is withdrawn as of March 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Michel Mitias, Technical Support Branch, Program Support Staff, Rural

Housing Service, U.S. Department of Agriculture, STOP 0761, 1400 Independence Avenue SW., Washington, DC 20250–0761; Telephone: 202–720–9653; FAX: 202–690–4335; E-mail: [michel.mitias@usda.gov](mailto:michel.mitias@usda.gov).

**SUPPLEMENTARY INFORMATION:** RHS published a direct final rule amending its regulations to change the threshold for surety requirements guaranteeing payment and performance from a \$100,000 contract amount to the maximum Rural Development Single Family Housing area lending limit. RHS received adverse comments on this direct final rule. Therefore, the agency is withdrawing the direct final rule. The regulations addressing surety requirements will not take effect on April 7, 2005.

#### List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

Dated: February 24, 2005.

**Rodney E. Hood,**

*Acting Administrator, Rural Housing Service.*

[FR Doc. 05–4323 Filed 3–4–05; 8:45 am]

**BILLING CODE 3410–XV–P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2005–20066; Airspace Docket No. 05–ACE–8]

#### Modification of Class E Airspace; Macon, MO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Macon, MO. A review of controlled airspace currently titled Macon–Power, MO revealed it does not conform to proper format, does not reflect the correct name of the airport nor its correct airport reference point (ARP) and does not comply with criteria for 700 feet above ground level (AGL) airspace required for diverse departures. The area is renamed, modified and enlarged to conform to the criteria in FAA Orders.

**DATES:** This direct final rule is effective on 0901 UTC, July 7, 2005. Comments