

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2007–0051]

#### Mexican Fruit Fly; Addition of Quarantined Area

**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 Webb County, TX, to the existing quarantined area and restricting the interstate movement of regulated articles from that area; and by amending the definitions for *core area* and *day degrees*. These actions are necessary to prevent the artificial spread of the Mexican fruit fly into noninfested areas of the United States and to update the regulations to reflect current science and practices.

**DATES:** This interim rule is effective May 18, 2007. We will consider all comments that we receive on or before July 17, 2007.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click “Submit.” In the Docket ID column, select APHIS–2007–0051 to submit or view public comments and to view supporting and related materials available electronically. Information on using [Regulations.gov](http://www.regulations.gov), including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “User Tips” link.

- *Postal Mail/Commercial Delivery:*

Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2007–0051, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0051.

*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:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wayne Burnett, Domestic Coordinator, Fruit Fly Exclusion and Detection, PPQ, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–4387.

#### 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 quarantined areas.

Section 301.64–3(a) provides that the Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service (APHIS), shall list as a regulated area each State, or each portion of a 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. The regulations impose restrictions on the interstate movement of regulated articles from the quarantined areas. Quarantined areas are listed in § 301.64–3(c).

Less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the quarantined articles that are substantially the same as those imposed on the interstate movement of quarantined articles and (2) the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Mexican fruit fly.

Recent trapping surveys by APHIS inspectors reveal that Mexican fruit fly has been introduced into a portion of Webb County, TX.

APHIS, with the cooperation of State agencies in Texas, has begun an intensive Mexican fruit fly eradication program in the quarantined area of Webb County. Also, Texas has taken action to restrict the intrastate movement of regulated articles from the quarantined area.

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 by designating that portion of Webb County, TX, as a quarantined area for the Mexican fruit fly. The quarantined area is described in detail in the regulatory text at the end of this document.

Section 301.64–1 of the regulations currently defines the term *core area* as the “1 square mile area surrounding each property where Mexican fruit fly has been detected.” We have determined that it is necessary to amend the definition of *core area* because the use of GPS technology allows us to more accurately measure the distance from a positive detection site of Mexican fruit fly. Therefore, we are revising the definition of the term *core area* to read “the area within a circle surrounding each detection using a 1/2-mile radius with the detection as a center point.”

The regulations currently define the term *day degrees* as a mathematical

construct combining average temperature over time that is used to calculate the length of a Mexican fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F: [(Minimum Daily Temp + Maximum Daily Temp)/2] – 54°=Day Degrees. We have determined that it is necessary to amend the definition of *day degrees* because the use of weather service data entered into a computer model enables us to more accurately measure day degree accumulation based upon the latest biological information than was previously possible. Therefore, we are revising the definition of *day degrees* to read “a unit of measurement used to measure the amount of heat required to further the development of fruit flies through their life cycle. Day-degree life cycle requirements are calculated through a modeling process specific for each fruit fly species.”

#### Emergency Action

This rulemaking is necessary on an emergency basis to prevent the Mexican fruit fly from spreading to noninfested areas of the United States. 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.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The Small Business Administration (SBA) has established size standards for determining which economic entities meet the definition of a small firm. The SBA classifies entities that would normally be affected by a quarantine for the Mexican fruit fly, growers of oranges (NAICS category 111310), citrus (except orange) groves (NAICS category 111320), apple orchards (NAICS category 111331), and

other non-citrus farming (NAICS category 111339), as small businesses if their annual receipts are \$750,000 or less. Any infestation by Mexican fruit fly could result in an increase in producer costs for pesticides and their application and a reduction in production and revenue. However, according to the 2002 Census of Agriculture, there were no commercial farms growing these commodities in Webb County, TX.

County records indicate there are approximately 1 airport, 4 bus terminals, 2 cargo freight forwarders, 2 distributors, 1 food bank, 2 nurseries, and 128 fruit sellers within the quarantined area that may be affected by this rule.

We expect that any 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 to be minimal. The effect on any small entities that may move regulated articles interstate will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

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.

#### National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with this interim rule, we have prepared an environmental assessment and finding of no significant impact. The environmental assessment and finding

of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (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).

The environmental assessment and finding of no significant impact may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this interim rule.) 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, 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. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Section 301.64–1 is amended by revising the definitions of *core area* and *day degrees* to read as follows:

#### § 301.64–1 Definitions.

\* \* \* \* \*

*Core area.* The area within a circle surrounding each detection using a ½ mile radius with the detection as a center point.

*Day degrees.* A unit of measurement used to measure the amount of heat required to further the development of fruit flies through their life cycle. Day-degree life cycle requirements are calculated through a modeling process specific for each fruit fly species.

\* \* \* \* \*

■ 3. In § 301.64–3, paragraph (c) is amended by adding, in alphabetical order, under the heading “Texas,” an entry for Webb County to read as follows:

**§ 301.64–3 Quarantined areas.**

\* \* \* \* \*  
(c) \* \* \*

**TEXAS**

\* \* \* \* \*

*Webb County:* That portion of Webb County in the Laredo area bounded by a line as follows: Beginning at a point described as 27.573282° N. latitude and –99.517998° W. longitude on the Rio Grande River, then east to a point described as 27.573524° N. latitude and –99.454503° W. longitude, then south to a point described as 27.442772° N. latitude and –99.448625° W. longitude, then west to a point described as 27.442613° N. latitude and –99.495403° N. longitude on the Rio Grande River, then north along the Rio Grande River to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 14th day of May 2007.

**Kevin Shea,**

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

[FR Doc. E7–9577 Filed 5–17–07; 8:45 am]

**BILLING CODE 3410–34–P**

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**FEDERAL RESERVE SYSTEM**

**12 CFR Part 229**

[Regulation CC; Docket No. R–1287]

**Availability of Funds and Collection of Checks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board of Governors is amending appendix A of Regulation CC to delete the reference to the Nashville branch office of the Federal Reserve Bank of Atlanta and reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Atlanta and is amending appendix B of Regulation CC to delete the reference to the Nashville branch office. The Board also is providing advance notice about future amendments to appendix A in connection with the next phase of the Reserve Banks’ restructuring of the check processing operations within the Federal Reserve System. This future restructuring and the associated

amendments to appendix A are expected to take place in the second half of 2007.

**DATES:** The final rule will become effective on July 21, 2007.

**FOR FURTHER INFORMATION CONTACT:** Jack K. Walton II, Associate Director (202/452–2660), or Joseph P. Baressi, Financial Services Project Leader (202/452–3959), Division of Reserve Bank Operations and Payment Systems; or Adrienne G. Threath, Counsel (202/452–3554), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263–4869.

**SUPPLEMENTARY INFORMATION:**

**Background**

Regulation CC establishes the maximum period a depository bank may wait between receiving a deposit and making the deposited funds available for withdrawal.<sup>1</sup> A depository bank generally must provide faster availability for funds deposited by a “local check” than by a “nonlocal check.” A check drawn on a bank is considered local if it is payable by or at a bank located in the same Federal Reserve check processing region as the depository bank. A check drawn on a nonbank is considered local if it is payable through a bank located in the same Federal Reserve check processing region as the depository bank. Checks that do not meet the requirements for “local” checks are considered “nonlocal.”

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods for most deposited checks. The appendix includes a list of each Federal Reserve check processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check processing region and thus are local to one another. Appendix B to Regulation CC reduces the generally permissible hold times for nonlocal check deposits collected between certain check processing regions from 5 days to 3 days due to generally faster collection times between these regions.

<sup>1</sup> For purposes of Regulation CC, the term “bank” refers to any depository institution, including commercial banks, savings institutions, and credit unions.

**Final Amendments to Appendix A and Appendix B**

The Reserve Banks announced in 2004 that the check-processing operations of the Nashville branch office of the Federal Reserve Bank of Atlanta would be transferred to the Atlanta Reserve Bank’s head office.<sup>2</sup> The Board previously provided notice of the Reserve Banks’ delay, due to Hurricane Katrina and the concomitant transfer of the New Orleans branch office’s check-processing operations to the Atlanta head office, of the transfer of the Nashville branch office’s check-processing operations.<sup>3</sup> The Reserve Banks will proceed with the transfer of the Nashville branch office’s check-processing operations to the Atlanta Reserve Bank’s head office on July 21, 2007. To assist banks in identifying local and nonlocal checks and making funds availability decisions, the Board is amending in appendix A the list of routing symbols associated with the Federal Reserve Bank of Atlanta to reflect the transfer of check-processing operations from the Atlanta Reserve Bank’s Nashville branch office to the Reserve Bank’s head office in Atlanta. In addition, because checks deposited in banks in the current Nashville check processing region and drawn on banks in the Atlanta check processing region will become local checks as a result of these changes, the provisions of appendix B relating to these checks no longer will be necessary. Accordingly, the Board also is amending appendix B to delete the reference to the Nashville branch office. To coincide with the effective date of the underlying check processing changes, the amendments to appendix A and appendix B are effective July 21, 2007. The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes.<sup>4</sup>

**Information About Future Changes to Appendix A**

As the Federal Reserve Banks announced on May 31, 2006,<sup>5</sup> in

<sup>2</sup> See 69 FR 57837, September 28, 2004.

<sup>3</sup> See 70 FR 74998, December 19, 2005.

<sup>4</sup> Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.

<sup>5</sup> The Reserve Banks’ press release is available at <http://www.federalreserve.gov/boarddocs/press/other/2006/20060531/default.htm>.