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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2008-0057]

Mexican Fruit Fly; Designation of Portion of Willacy County, TX, as a 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 designating a portion of Willacy County, TX, as a quarantined area and restricting the interstate movement of regulated articles from that area. This action is necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States.

DATES: This interim rule is effective June 5, 2008. We will consider all comments that we receive on or before August 4, 2008.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov/fdmspublic/component/>

- **Postal Mail/Commercial Delivery:** Please send two copies of your comment to Docket No. APHIS-2008-0057, 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-2008-0057.

- **Postal Mail/Commercial Delivery:** Please send two copies of your comment to Docket No. APHIS-2008-0057, 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-2008-0057.

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 D. Burnett, Domestic Coordinator, Fruit Fly Exclusion and Detection Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1234; (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 quarantined areas.

Section 301.64-3 provides that the Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service (APHIS), shall list as a quarantined 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.

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

imposed with respect to the interstate movement of the articles by the APHIS regulations and the designation of less than the entire State as a quarantined area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

Recent trapping surveys by county agencies reveal that a portion of Willacy County, TX, is infested with the Mexican fruit fly.

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 Willacy 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. The Deputy Administrator has determined that it is not necessary to designate the entire State of Texas as a quarantined area.

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.

This rule amends the Mexican fruit fly regulations by designating a portion of Willacy County, TX, as a quarantined area and restricting the interstate movement of regulated articles from that area. This action is necessary to prevent the spread of the Mexican fruit fly into noninfested areas of the United States.

Within the quarantined area there are approximately 20 small entities that may be affected by this rule. These include two grocery stores, three fruit stands, four citrus producers, six truck vendors, four nurseries, and one recycling center. These 20 entities comprise less than 1 percent of the total number of similar entities operating in the State of Texas. Additionally, these small entities sell regulated articles primarily for local intrastate, not interstate movement, so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do 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.

Paperwork Reduction Act

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

§ 301.64–3 Quarantined areas.

* * * * *

(c) * * *

Texas

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Willacy County. That portion of the county in the Raymondville/Lasara area bounded by a line as follows: Beginning at the intersection of FM 498 and FM 2845; then east on FM 498 to FM 2099; then north on FM 2099 to FM 490; then east on FM 490 to a point described as latitude 26.45360 and longitude –97.69919; then north from that point along an imaginary line to CR 3796; then west on CR 3796 to Santa Margarita Road; then north on Santa Margarita Road to Riggins Road; then west on Riggins Road to Cantu Road; then northwest along an imaginary line to a point described as latitude 26.57423 and longitude –97.70461; then west from that point along an imaginary line to the Willacy County line; then south, east, and south along the Willacy County line to FM 1921; then east on FM 1921 to FM 2845; then south on FM 2845 to the point of beginning.

Done in Washington, DC, this 29th day of May 2008.

Cindy J. Smith,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–12542 Filed 6–4–08; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS–2006–0164]

RIN 0579–AC35

Temporary Importation of Horses; Noncompetitive Entertainment Horses From Countries Affected With Contagious Equine Metritis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to allow noncompetitive entertainment horses from countries affected with contagious equine metritis to be temporarily imported into the United States under certain conditions. The regulations currently provide for the temporary importation of horses from countries affected with contagious equine metritis to compete in specified events. In recent years it has become evident that similar provisions are needed for noncompetitive entertainment horses. This action will allow the temporary importation of horses into the United States solely for public exhibition and entertainment purposes while continuing to protect against the introduction and dissemination of contagious equine metritis.

DATES: *Effective Date:* July 7, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Ellen M. Buck, Veterinary Medical Officer, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart C—Horses, §§ 93.300 through 92.326 of the regulations, pertains to the importation of horses into the United States.

Section 93.301 of the regulations contains specific provisions for the quarantine and testing of horses from regions affected with contagious equine metritis (CEM), a highly contagious bacterial venereal disease that affects breeding and fertility. This section also identifies regions where CEM exists and regions that trade horses freely with those where CEM exists without testing for CEM.

To prevent the introduction of CEM into the United States, § 93.301(c)(1) prohibits the importation of horses into the United States from listed regions unless the horses are imported in accordance with certain requirements. To be eligible for importation, the horses must fall into one of the following categories:

- Wild (non-domesticated) species of equidae if captured in the wild or imported from a zoo or other facility where it would be unlikely that the animal would come in contact with domesticated horses used for breeding;