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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2009-0002]

Regulation of the Interstate Movement of Lemons from Areas Quarantined for Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the list of regulated articles in our domestic fruit fly quarantine regulations. The regulations have indicated that smooth-skinned lemons (all varieties of *Citrus limon*) harvested for packing by commercial packinghouses are not regulated articles for Mediterranean fruit fly. We are amending the regulations to designate all yellow lemons as regulated articles. This change is based on research indicating that, under certain conditions, yellow lemons are a host for Mediterranean fruit fly. As a result of this action, yellow lemons in an area quarantined for Mediterranean fruit fly will be subject to certain interstate movement restrictions in order to prevent the spread of that pest into uninfested areas of the United States.

DATES: *Effective Date:* April 19, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, APHIS Exotic Fruit Fly Director, Fruit Fly Exclusion and Detection Programs, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-4387.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly (Medfly, *Ceratitis capitata* [Wiedemann]) is one of the world's most destructive pests of

fruits and vegetables. The short life cycle of the Medfly allows rapid development of serious outbreaks, which can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Animal and Plant Health Inspection Service (APHIS) enforces regulations in 7 CFR part 301, "Domestic Quarantine Notices," that are designed to prevent the interstate spread of pests that are new to or not widely distributed within the United States. The regulations in "Subpart-Fruit Flies," contained in §§ 301.32 through 301.32-10 (referred to below as the regulations), are intended to prevent the spread of fruit flies designated as plant pests to noninfested areas of the United States. To this end, the regulations impose restrictions on the interstate movement of articles that are hosts of fruit flies or whose movement could otherwise spread fruit flies from areas quarantined because of fruit flies. We refer to these articles as "regulated articles." The table in § 301.32-2(a), "Regulated Articles," lists articles subject to domestic quarantine regulations for several species of fruit fly, including Medfly.

On September 21, 2009, we published in the **Federal Register** (74 FR 48013-48014, Docket No. APHIS-2009-0002) a proposal¹ to amend the list of regulated articles in our domestic fruit fly quarantine regulations. Lemons (*Citrus limon*) are included in that list as a regulated article for several types of fruit flies, but a footnote to the table has indicated that smooth-skinned lemons harvested for packing by commercial packinghouses are not regulated articles for Medfly. We proposed to amend the regulations to designate all yellow lemons as regulated articles based on recent research indicating that, under certain conditions, yellow lemons are a host for Medfly.

We solicited comments concerning our proposal for 60 days ending November 20, 2009. We received four comments by that date. They were from citrus industry organizations and a State agricultural official. All responses were in favor of designating all yellow lemons as regulated articles for Medfly.

¹ To view the proposed rule, the economic analysis, the scientific review, and the comments we received, go to (<http://www.regulations.gov/jdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0002>).

Therefore, for the reasons given in the proposed rule, we are adopting that aspect of the proposed rule as a final rule, without change.

We also proposed to amend the treatments regulations in 7 CFR part 305 by updating the list in § 305.2(h)(2)(ii) of approved treatments for regulated articles moved interstate from areas quarantined for fruit flies to correct two outdated references to the fruit fly regulations. However, a final rule published in the **Federal Register** (75 FR 4228-4253, Docket No. APHIS-2008-0022) on January 26, 2010, and effective on February 25, 2010, has rendered that change unnecessary.

Correction to Provisions

In this final rule, we are making another change to the regulations in order to correct an error that occurred when the consolidated fruit fly subpart was established. Specifically, in § 301.32(a), tomato (*Lycopersicon esculentum*) is listed as a regulated article for Medfly, melon fruit fly, Oriental fruit fly, and peach fruit fly. The footnote appended to that entry states that only pink and red ripe tomatoes are regulated articles for melon, Oriental, and peach fruit flies, which means that green tomatoes are not regulated articles for those three fruit flies, while all tomatoes, regardless of the stage of ripeness, are regulated articles for Medfly. The footnote is incorrect. It appears that when we established the regulations, we reversed the status of tomatoes with respect to those fruit flies. Therefore, in this document, we are amending the entry for tomatoes to indicate that only pink and red ripe tomatoes are regulated articles for Medfly, while all tomatoes, regardless of the stage of ripeness, are regulated articles for melon, Oriental, and peach fruit flies.

Executive Order 12866 and Regulatory Flexibility Act

This final rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1

in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

As described in the economic analysis, the majority of producers, importers, and merchants that may be affected by this rule are small entities. The number of producers that may be affected in the future is not known, since we do not have data on production of smooth-skinned lemons harvested for packing by commercial packinghouses. Nonetheless, the costs of any pre-harvest or post-harvest treatments of smooth-skinned lemons required by this rule are negligible. In addition, removal of the regulatory exemption for smooth-skinned lemons harvested for packing by commercial packinghouses will reduce the risk of Medfly spreading from a quarantined area to a non-quarantined area, thereby potentially saving producers control and eradication costs.

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 final 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 final 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 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).

§ 301.32-2 [Amended]

- 2. In § 301.32-2, paragraph (a), the table is amended as follows:
 - a. In footnote 2, by removing the words “Smooth-skinned lemons harvested for packing by commercial packinghouses are not” and adding the words “Only yellow lemons are” in their place.
 - b. By revising the entry for *Lycopersicon esculentum*, including footnote 4, to read as set forth below.

§ 301.32-2 Regulated articles.

(a) * * *

Botanical name	Common name(s)	Fruit fly
* * *	* * *	* * *
<i>Lycopersicon esculentum</i>	Tomato	Mediterranean, ⁴ Melon, Oriental, Peach.
* * *	* * *	* * *

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⁴Only pink and red ripe tomatoes are regulated articles for Mediterranean fruit fly.

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 Done in Washington, DC, this 11th day of March 2010.

Kevin Shea
Acting Administrator, Animal and Plant Health Inspection Service.
 [FR Doc. 2010-5945 Filed 3-17-10; 11:25 am]
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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064-AD55

Transitional Safe Harbor Protection for Treatment by the Federal Deposit Insurance Corporation as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection With a Securitization or Participation

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (“FDIC”) is amending its regulation, Defining Transitional Safe Harbor Protection for Treatment By The Federal Deposit Insurance Corporation As Conservator Or Receiver Of Financial Assets

Transferred In Connection With A Securitization Or Participation. The amendment adds a new provision in order to continue for a limited time the safe harbor provision for securitizations that would be affected by recent changes to generally accepted accounting principles. In effect, the Final Rule permanently “grandfathers” all securitizations for which financial assets were transferred or, for revolving trusts, for which securities were issued prior to September 30, 2010 so long as those securitizations complied with the preexisting requirements under generally accepted accounting principles in effect prior to November 15, 2009. The transitional safe harbor will apply irrespective of whether or not the securitization satisfies all of the conditions for sale accounting treatment under generally accepted accounting principles as effective for reporting periods after November 15, 2009. In