

under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) Revised Part 51 becomes effective August 6, 1982. Since Part 51 deals principally with agency procedures and relieves burdens previously imposed on Federal agencies, the OFR has determined that the 30 day delay in effectiveness prescribed by 5 U.S.C. 553(d) is unnecessary.

Distribution and Derivation Tables

For clarity and convenience, OFR directs users to the following tables that identify previous Part 51 section numbers and show where these sections have been integrated into revised Part 51.

DISTRIBUTION TABLE

Old Part 51	New Part 51
51.1(a)	Unchanged.
51.1(b)	Revised. See 51.1(d).
51.1(c)	Revised. See 51.1(b); 51.7(b).
51.1(c)(1)	Revised. See 51.1(b)(2).
51.1(c)(2)	Revised. See 51.1(b)(1).
51.1(c)(3)	Revised. See 51.1(b)(3).
51.1(c)(4)	Revised. See 51.1(b)(4).
51.1(d)	Revised. See 51.1(c).
51.1(d)(1)	Clarified. See 51.1(c)(2).
51.1(d)(2)	Removed.
51.1(d)(3)	Revised. See 51.1(c)(1).
51.1(e)	Revised. See 51.1(c)(2).
51.2	Revised. See 51.5(a), (b).
51.3(a)	Revised. See 51.7(a), (a)(1), (a)(2), (a)(4); Clarified. See 51.7(c), (c)(1), (c)(2).
51.3(b)	Clarified. See 51.7(c).
51.3(b)	Removed.
51.4 (undesignated)	Revised. See 51.3(a).
51.4(a)	Revised. See 51.3(a)(1).
51.4(b)	Revised. See 51.7(a)(3).
51.4(c)	Revised. See 51.7(a)(4).
51.4(d)	Revised. See 51.3(a)(2).
51.5	Revised. See 51.3(a)(3); 51.5(a)(3); 51.11(a)(2).
51.6(a)	Revised. See 51.3(a)(2); 51.9(a); (b).
51.6(b)	Revised. See 51.3(a)(2); 51.9(a), (b).
51.7(a)	Removed.
51.7(b)	Revised. See 51.9(b)(2).
51.7(c)	Revised. See 51.9(b)(3).
51.8(a)	Revised. See 51.9(b)(4).
51.8(b)	Revised. See 51.9(b)(4).
51.8(c)	Revised. See 51.1(f); 51.11(a); (a)(1).
51.10(a)	Revised. See 51.5(a)(1).
51.10(b)	Revised. See 51.3(b).
51.10(c)	Unchanged. See 51.1(e).
51.11	Revised. See 51.9(c).
51.12	Revised. See 51.9(c).
51.13	Removed.

DERIVATION TABLE

New Part 51	Old Part 51
51.1(a)	51.1(a) unchanged.
51.1(b)	51.1(c) revised.
51.1(b)(1)	51.1(c)(2) revised.
51.1(b)(2)	51.1(c)(1) revised.
51.1(b)(3)	51.1(c)(3) revised.
51.1(b)(4)	51.1(c)(4) revised.
51.1(c)	51.1(d) revised.
51.1(c)(1)	51.1(d)(2) revised.
51.1(c)(2)	51.1(d)(3) revised.
51.1(d)	51.1(b)
51.1(e)	51.10(c) unchanged.
51.1(f)	51.8(c) revised.
51.3(a)	51.4(undesignated) revised.
51.3(a)(1)	51.4(a) revised.
51.3(a)(2)	51.4(d) revised; 51.6(a); (b) revised.
51.3(a)(3)	51.5 revised.
51.3(a)(4)	51.11 revised.
51.3(b)	51.10(b) revised.

DERIVATION TABLE—Continued

New Part 51	Old Part 51
51.5(a)	51.1(e) revised.
51.5(a)(1)	51.10(a) revised.
51.5(a)(2)	51.4(d) revised.
51.5(a)(3)	51.5 revised.
51.5(b)	51.1(e) revised.
51.7(a)	51.2 revised.
51.7(a)(1)	51.2 revised.
51.7(a)(2)	51.2 revised.
51.7(a)(3)	51.4(b) revised.
51.7(a)(4)	51.2 revised; 51.4(c) clarified.
51.7(b)	51.1(c); 51.1(d)(3); 51.2 clarified.
51.7(c)(1)	51.1(a) clarified.
51.7(c)(2)	51.1(a) clarified.
51.9(a)	51.6(a); (b) revised.
51.9(b)	51.6(a) revised.
51.9(b)(1)	51.6(b) revised.
51.9(b)(2)	51.7(b) revised.
51.9(b)(3)	51.7(c) revised.
51.9(b)(4)	51.8(a); (b) revised.
51.9(b)(5)	51.6(b) clarified.
51.9(c)	51.12 revised; see also 1 CFR 18.12; 18.20.
51.11(a)	51.8(c) revised.
51.11(a)(1)	51.8(c) revised.
51.11(a)(2)	51.5 revised; 51.8(c) clarified.
51.11(a)(3)	Added.
51.11(b)	Added.

List of Subjects in 1 CFR Part 51

Administrative practice and procedure, Incorporation by reference.

For the reasons set out in the preamble, Chapter II of Title 1 of the Code of Federal Regulations is amended as set forth below:

Part 51 is revised to read as follows:

PART 51—INCORPORATION BY REFERENCE

Sec.

51.1 Policy.

51.3 When will the Director approve a publication?

51.5 How does an agency request approval?

51.7 What publications are eligible?

51.9 What is the proper language of incorporation?

51.11 How does an agency change or remove an approved incorporation?

Authority: 5 U.S.C. 552(a).

§ 51.1 Policy.

(a) Section 552(a) of Title 5, United States Code, provides, in part, that "matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register."

(b) The Director will interpret and apply the language of section 552(a) together with other requirements which govern publication in the Federal Register and the Code of Federal Regulations. Those requirements which govern publication include—

(1) The Federal Register Act (44 U.S.C. 1501 et seq.)

(2) The Administrative Procedure Act (5 U.S.C. 551 et seq.);

(3) The regulations of the Administrative Committee of the Federal Register under the Federal Register Act (1 CFR Ch. I); and

(4) The acts which require publication in the Federal Register (See CFR volume entitled "CFR Index and Finding Aids.")

(c) The Director will assume in carrying out the responsibilities for incorporation by reference that incorporation by reference—

(1) Is intended to benefit both the Federal Government and the members of the class affected; and

(2) Is not intended to detract from the legal or practical attributes of the system established by the Federal Register Act, the Administrative Procedure Act, the regulations of the Administrative Committee of the Federal Register, and the acts which require publication in the Federal Register.

(d) The Director will carry out the responsibilities by applying the standards of Part 51 fairly and uniformly.

(e) Publication in the Federal Register of a document containing an incorporation by reference does not of itself constitute an approval of the incorporation by reference by the Director.

(f) Incorporation by reference of a publication is limited to the edition of the publication that is approved. Future amendments or revisions of the publication are not included.

§ 51.3 When will the Director approve a publication?

(a) The Director will approve the incorporation by reference of a publication when the following requirements are met:

(1) The publication is eligible for incorporation by reference (See § 51.7).

(2) The language of incorporation meets the requirements of this part (See § 51.9).

(3) The publication is on file with the Office of the Federal Register.

(4) The Director has received a written request from the agency to approve the incorporation by reference of the publication.

(b) The Director will notify the agency of the approval or disapproval of an incorporation by reference within 20 working days after the agency has met all the requirements for requesting approvals (See § 51.5).

§ 51.5 How does an agency request approval?

(a) Formal approval of a publication

for incorporation by reference applies to a final rule document. For timely approval by the Director of the Federal Register, the agency must—

(1) Make a written request for approval at least 20 working days before the agency intends to submit the final rule document for publication;

(2) Send with the written request a copy of the final rule document that uses the proper language of incorporation; and

(3) Ensure that a copy of the publication is on file at the Office of the Federal Register.

(b) Agencies may consult with the Office of the Federal Register at any time with respect to the requirements of this part.

§ 51.7 What publications are eligible?

(a) A publication is eligible for incorporation by reference under 5 U.S.C. 552(a) if it—

(1) Conforms to the policy stated in § 51.1;

(2) Is published data, criteria, standards, specifications, techniques, illustrations, or similar material;

(3) Substantially reduces the volume of material published in the Federal Register; and

(4) Is reasonably available to and usable by the class of persons affected by the publication. In determining whether a publication is usable, the Director will consider—

(i) The completeness and ease of handling of the publication; and

(ii) Whether it is bound, numbered, and organized.

(b) The Director will assume that a publication produced by the same agency that is seeking its approval is inappropriate for incorporation by reference. A publication produced by the agency may be approved, if, in the judgment of the Director, it meets the requirements of paragraph (a) and possesses other unique or highly unusual qualities. A publication may be approved if it cannot be printed using the Federal Register/Code of Federal Regulations printing system.

(c) The following materials are not appropriate for incorporation by reference:

(1) Material published previously in the Federal Register.

(2) Material published in the *United States Code*.

§ 51.9 What is the proper language of incorporation?

(a) The language incorporating a publication by reference shall be as precise and complete as possible and shall make it clear that the incorporation

by reference is intended and completed by the final rule document in which it appears.

(b) The language incorporating a publication by reference is precise and complete if it—

(1) Uses the words "incorporated by reference;"

(2) States the title, date, edition, author, publisher, and identification number of the publication;

(3) Informs the user that the incorporated publication is a requirement;

(4) Makes an official showing that the publication is in fact available by stating where and how copies may be examined and readily obtained with maximum convenience to the user; and

(5) Refers to 5 U.S.C. 552(a).

(c) If the Director approves a publication for incorporation by reference, the agency must—

(1) Include the following under the DATES caption of the preamble to the final rule document (See 1 CFR 18.12 *Preamble requirements*):

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of _____.

(2) Includes the term "incorporation by reference" in the list of index terms (See 1 CFR 18.20 *Identification of subjects in agency regulations*).

§ 51.11 How does an agency change or remove an approved incorporation?

(a) An agency that seeks approval for a change to a publication that is approved for incorporation by reference must—

(1) Publish notice of the change in the Federal Register and amend the Code of Federal Regulations;

(2) Ensure that a copy of the amendment or revision is on file at the Office of the Federal Register; and

(3) Notify the Director of the Federal Register in writing that the change is being made.

(b) If a regulation containing an incorporation by reference fails to become effective or is removed from the Code of Federal Regulations, the agency must notify the Director of the Federal Register in writing of that fact within 5 working days of the occurrence.

Dated: August 3, 1982.

John E. Byrne,

Director of the Federal Register.

[FR Doc. 82-21305 Filed 8-5-82; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-330]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: The Mediterranean fruit fly quarantine and regulations quarantine California and impose restrictions on the movement of regulated articles from regulated areas in California. This document amends the quarantine and regulations by deleting portions of Santa Clara and Santa Cruz Counties from the list of regulated areas. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of regulated articles from the areas removed from regulated area status. This action is warranted because such restrictions are no longer necessary for the purpose of preventing the artificial spread of the Mediterranean fruit fly.

DATES: Effect date of amendment August 6, 1982. Written comments concerning this rule must be received on or before October 4, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule