

*Prosopis calingastana* Burkart  
*Prosopis campestris* Grisebach  
*Prosopis castellanosii* Burkart  
*Prosopis denudans* Benth  
*Prosopis elata* (Burkart) Burkart  
*Prosopis farcta* (Solander ex Russell) Macbride  
*Prosopis ferox* Grisebach  
*Prosopis fiebrigii* Harms  
*Prosopis hassleri* Harms  
*Prosopis humilis* Gillies ex Hooker & Arnott  
*Prosopis kuntzei* Harms  
*Prosopis pallida* (Humboldt & Bonpland ex Willdenow) Humboldt, Bonpland, & Kunth  
*Prosopis palmeri* S. Watson  
*Prosopis reptans* Benth var. *reptans*  
*Prosopis rojasiana* Burkart  
*Prosopis ruizlealii* Burkart  
*Prosopis ruscifolia* Grisebach  
*Prosopis sericantha* Gillies ex Hooker & Arnott  
*Prosopis strombulifera* (Lamarck) Benth  
*Prosopis torquata* (Cavanilles ex Lagasca y Segura) de Candolle  
*Rottboellia cochinchinensis* (Lour.) Clayton (= *R. exaltata* (L.) L. f.)  
*Rubus fruticosus* L. (complex)  
*Rubus moluccanus* L.  
*Saccharum spontaneum* L.  
*Sagittaria sagittifolia* L.  
*Salsola vermiculata* L.  
*Salvinia auriculata* Aublet  
*Salvinia biloba* Raddi  
*Salvinia herzogii* de la Sota  
*Salvinia molesta* D.S. Mitchell  
*Setaria pallide-fusca* (Schumacher) Stapf & Hubbard  
*Solanum torvum* Swartz  
*Solanum viarum* Dunal  
<sup>1</sup> *Sonchus arvensis* L.  
<sup>1</sup> *Sorghum halepense* (L.) Pers.  
*Sparganium erectum* L.  
*Striga* spp.  
*Tridax procumbens* L.  
*Urochloa panicoides* Beauvois

<sup>1</sup> Seeds with tolerances applicable to their prohibition.

(b) The tolerance applicable to the prohibition of the noxious weed seeds marked above with (1) shall be two seeds in the minimum amount required to be examined as shown in Table 1, § 201.46. If fewer than two seeds are found in an initial examination, the shipment from which the sample was drawn may be imported. If two seeds are found in an initial examination, a second sample must be examined. If two or fewer seeds are found in the second examination, the shipment from which the samples were drawn may be imported. If three or more seeds are found in the second examination, the shipment from which the samples were drawn may not be imported. If three or more seeds are found in an initial examination, the shipment from which the sample was drawn may not be imported.

Done in Washington, DC, this 15th day of March 1995.

**Terry Medley,**

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-7133 Filed 3-22-95; 8:45 am]

BILLING CODE 3410-34-P

## 7 CFR Part 360

[Docket No. 94-050-1]

### Noxious Weeds; Deletions and Additions to List

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

**ACTION:** Proposed rule and notice of public hearing.

**SUMMARY:** We are proposing to amend the noxious weed regulations by removing *Stratiotes aloides* Linnaeus (water-aloë) from the list of aquatic weeds and *Euphorbia prunifolia* Jacquin (painted euphorbia) from the list of terrestrial weeds. We are also proposing to amend the noxious weed regulations by adding *Ottelia alismoides* (L.) Pers. to the list of aquatic weeds and *Solanum viarum* Dunal (tropical soda apple) to the list of terrestrial weeds. Listed noxious weeds may be moved into or through the United States only under a written permit and under conditions that would not involve a danger of dissemination of the weeds. This action appears to be necessary to prevent the artificial spread of noxious weeds into noninfested areas of the United States, and to remove unnecessary restrictions. **DATES:** Consideration will be given only to comments received on or before April 24, 1995. We also will consider comments made at a public hearing to be held on April 4, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 94-050-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20727-1238. Please state that your comments refer to Docket No. 94-050-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room. The public hearing will be held in room 3A01, 4700 River Road, Riverdale, MD 20737-1228.

**FOR FURTHER INFORMATION CONTACT:** Ms. Polly Lethonen, Botanist, Biological Assessment and Taxonomic Support, PPQ, APHIS, Suite 4A03, 4700 River Road Unit 113, Riverdale, MD 20737-1236, (301) 734-8896.

#### SUPPLEMENTARY INFORMATION:

#### Background

The noxious weed regulations (referred to below as the regulations)

were promulgated under authority of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq., referred to below as the Act) and are set forth in 7 CFR part 360. They contain restrictions on the movement of listed noxious weeds into or through the United States, but do not affect the movement of listed noxious weeds that are moved solely intrastate.

A listed noxious weed may be moved into or through the United States only pursuant to a written permit. The regulations provide that APHIS will issue a written permit only after determining that the importation and movement of the noxious weed would not involve a danger of dissemination of the noxious weed in the United States.

Section 360.200 of the regulations lists these categories of noxious weeds: aquatic (§ 360.200(a)), parasitic (§ 360.200(b)), and terrestrial (§ 360.200(c)). This document proposes to delete *Stratiotes aloides* Linnaeus (water-aloë) from the list of aquatic weeds and *Euphorbia prunifolia* Jacquin (painted euphorbia) from the list of terrestrial weeds. This document also proposes to add *Ottelia alismoides* (L.) Pers. to the list of aquatic weeds and *Solanum viarum* Dunal (tropical soda apple) to the list of terrestrial weeds.

The Act (7 U.S.C. 2802(c)) defines a noxious weed as "any living stage (including but not limited to, seeds and reproductive parts) of any parasitic or other plant of a kind, or subdivision of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation or the fish or wildlife resources of the United States or the public health."

First reported in Florida in 1988, *Solanum viarum* Dunal (tropical soda apple) has spread rapidly in Florida and appears to be a noxious weed, as defined in the Act. It is of foreign origin, not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or other interests of agriculture. Tropical soda apple poses a significant threat to the cattle industry, agricultural areas, and natural ecosystems of the southern United States. The Weed Science Society of America and the National Association of Exotic Plant Pest Councils support the listing of tropical soda apple under the Federal Noxious Weed Act, as does the pest risk assessment completed by the Animal and Plant Health Inspection

Service in April, 1994.<sup>1</sup> Listing this species will help avert further introductions and prevent the artificial spread of the weed into noninfested areas of the United States. Therefore, we are proposing to amend § 360.200(c) by adding *Solanum viarum* Dunal (tropical soda apple) to the list of terrestrial weeds under the noxious weed regulations.

The regulations also list *Stratiotes aloides* Linnaeus (water-aloe) as an aquatic noxious weed. This is an error. That species is not considered a noxious weed anywhere in its range. The correct listing should have been *Stratiotes alismoides* L. (duck-lettuce), which has been renamed as *Ottelia alismoides* (L.) Pers. We consider *Ottelia alismoides* (L.) Pers. to be a noxious weed because it is of foreign origin, is new to or not widely prevalent in the United States, and is directly or indirectly injurious to agricultural interests because it forms dense colonies along ditchbanks and irrigation canals that impede water flow. It is also a potentially serious weed of rice fields and slow moving or still bodies of water. Therefore, we are proposing to amend 7 CFR 360.200(a) by removing *Stratiotes aloides* Linnaeus (water-aloe) and adding *Ottelia alismoides* (L.) Pers. to the list of aquatic weeds.

*Euphorbia prunifolia* Jacquin (painted euphorbia), now listed in the regulations as a terrestrial weed, is considered to be synonymous with *Euphorbia heterophylla*,<sup>2</sup> a species native to North America, and widespread in the United States. Consequently, *Euphorbia prunifolia* Jacquin (painted euphorbia) no longer appears to meet the definition of a noxious weed under the Act. Therefore, we are proposing to amend § 360.200(c) by removing *Euphorbia prunifolia* Jacquin (painted euphorbia).

#### Public Hearing

APHIS will host a public hearing to provide interested persons a full opportunity to present their views regarding this proposal. At this public hearing, we will also consider comments on a proposed rule to amend the Federal Seed Act regulations. (See APHIS Docket No. 93-126-2, published in the Proposed Rule section of this issue of the **Federal Register**.) The

hearing will be held on April 4, 1995, in room 3A01, 4700 River Road, Riverdale, MD 20737-1228.

A representative of APHIS will preside at the public hearing. Any interested person may appear and be heard in person, by attorney, or by other representative. Persons who wish to speak at the public hearing will be asked to sign in, listing their names and organizations.

The public hearing will begin at 9 a.m. local time and is scheduled to end at 12 p.m. local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing. If the number of speakers at a hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

The purpose of the hearings is to give interested persons an opportunity for oral presentations of data, views, and arguments. Questions about the content of the proposed rules may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at a hearing, except to clarify or explain provisions of the proposed rules.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, set forth below, regarding the impact of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the economic effects of this rule on small entities. Therefore, we are inviting comments concerning potential economic impacts. In particular, we are interested in determining the number and kinds of small entities that may incur benefits or costs from implementation of this proposed rule.

In accordance with 7 U.S.C. 2803 and 2809, the Secretary of Agriculture is authorized to promulgate regulations to prevent the movement of any noxious weed into the United States, or interstate, except under conditions prescribed by the Secretary.

This proposed rule would add *Solanum viarum* Dunal (tropical soda apple) to the list of terrestrial noxious weeds. The reduction in usable acreage

caused by the spread of tropical soda apple poses a significant threat to the cattle industry and to other agricultural entities. Tropical soda apple also poses a threat to natural ecosystems. The weed is spreading into citrus groves, vegetable farms, sugarcane production areas, and dairy farms. Preventing further introductions and curtailing spread would have a positive economic impact on ranchers and growers not yet affected.

If this proposed rule is adopted, commodities offered for import found to be contaminated with propagules of tropical soda apple will have to be cleaned, treated, or reexported. This could have a negative economic impact on various importers. However, information regarding importations of commodities contaminated with tropical soda apple is not available, nor is the number of importers of such material. We expect that the economic impact on importers would be minimal as a result of this proposed rule change.

This proposed rule would also remove *Euphorbia prunifolia* Jacquin (painted Euphorbia) from the list of terrestrial noxious weeds, and would therefore remove restrictions on its importation and interstate movement. From 1985 through 1993, 207 shipments of articles intended for entry into the United States were found to contain *Euphorbia*, possibly *prunifolia*.

This proposed rule would also add *Ottelia alismoides* (L.) Pers. to the list of aquatic noxious weeds, and would remove *Stratiotes aloides* Linnaeus (water-aloe) from the list of aquatic noxious weeds. Data on the amount of *Ottelia alismoides* (L.) Pers., if any, currently being imported into the United States is unavailable. From 1985 through 1993, one shipment of articles intended for entry into the United States was found to contain water-aloe.

This proposed rule contains paperwork and recordkeeping requirements. A listed noxious weed may be moved into or through the United States only pursuant to a written permit. The regulations provide that APHIS will issue a written permit only after determining that the importation and movement of the noxious weed would not involve a danger of dissemination of the noxious weed in the United States.

#### 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.)

<sup>1</sup> A copy of the pest risk assessment is available for inspection in the comment reading room (see ADDRESSES) or may be obtained from the individual listed under FOR FURTHER INFORMATION CONTACT.

<sup>2</sup> The Agriculture Research Service Germplasm Resource Information Network (GRIN) database, and other sources. For additional information, contact the individual listed under FOR FURTHER INFORMATION CONTACT.

**Executive Order 12778**

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 7 CFR Part 360**

Imports, Plants (Agriculture), Quarantine, Transportation, Weeds.

Accordingly, 7 CFR part 360 would be amended as follows:

**PART 360—NOXIOUS WEED REGULATIONS**

1. The authority citation for part 360 would continue to read as follows:

**Authority:** 7 U.S.C. 2803 and 2809; 7 CFR 2.17, 2.51, and 371.2(c).

**§ 360.200 [Amended]**

2. Section 360.200 would be amended as follows:

a. In paragraph (a), by removing "*Stratiotes aloides* Linnaeus (water-aloë)".

b. In paragraph (a), by adding "*Ottelia alismoides* (L.) Pers." immediately after "*Monochoria vaginalis* (Burman f.) C. Presl".

c. In paragraph (c), by removing "*Euphorbia prunifolia* Jacquin (painted euphorbia)".

d. In paragraph (c), by adding "*Solanum viarum* Dunal (tropical soda apple)" immediately after "*Solanum torvum* Swartz (turkeyberry)".

Done in Washington, DC, this 15th day of March 1995.

**Terry Medley,**

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

[FR Doc. 95-7135 Filed 3-22-95; 8:45 am]

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**Agricultural Marketing Service****7 CFR Part 1050**

[DA-95-14]

**Milk in the Central Illinois Marketing Area; Proposed Suspension of Certain Provisions of the Order**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed suspension of rule.

**SUMMARY:** This document invites written comments on a proposal to suspend a portion of the producer milk definition of the Central Illinois Federal milk marketing order (Order 50) for an indefinite period commencing April 1, 1995. The proposed suspension was requested by Prairie Farms Dairy, Inc., which contends the action is necessary to prevent uneconomic and inefficient movements of milk and to ensure that producer milk historically associated with Order 50 will continue to be pooled under the order.

**DATES:** Comments are due no later than March 30, 1995.

**ADDRESSES:** Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 690-1932.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provision of the order regulating the handling of milk in the Central Illinois marketing area is being considered for an indefinite period, beginning April 1, 1995:

In § 1050.13(d)(2), the words "not" and "it" where they first appear.

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

**Statement of Consideration**

The proposed rule would suspend a portion of the producer milk definition under the Central Illinois order for an indefinite period of time, beginning April 1, 1995. The proposed suspension would suspend the diversion limits applicable to individual producers for a pool distributing plant regulated under the order. The aggregate limit of 35 percent contained in the proviso of