

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 335

[Docket No. 93-026-4]

RIN 0579-AA61

#### Introduction of Nonindigenous Organisms

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We are withdrawing a proposed rule to establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. Additionally, we are notifying the public of our intent to publish an advance notice of proposed rulemaking to solicit further public comment regarding what should be proposed in any new proposed rule. We are taking this action after considering the comments on the proposed rule.

**DATES:** Withdrawal of proposed rule effective June 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Matthew H. Royer, Chief Operations Officer, Biological Assessment and Taxonomic Support, PPQ, APHIS, Suite 4A01, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 734-7654.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 26, 1995, the Animal and Plant Health Inspection Service (APHIS) published a proposed rule in the **Federal Register** (60 FR 5288-5307, Docket No. 93-026-1) to establish regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms. In that document, APHIS stated that the proposed rule appeared to be necessary

because the plant pest regulations under which the movement of certain nonindigenous organisms are currently regulated do not adequately address the introduction of nonindigenous organisms that may potentially be plant pests. The proposed regulations were intended to provide a means of screening certain nonindigenous organisms prior to their introduction to determine the potential plant pest risk associated with a particular introduction.

We initially solicited comments on the proposed rule for 60 days ending on March 27, 1995. We also hosted three public hearings regarding the proposed rule during that initial comment period, in Kansas City, MO, on March 6, 1995; in Sacramento, CA, on March 7, 1995; and in Washington, DC, on March 10, 1995. We received several requests for an extension of the comment period to allow interested parties additional time to comment on the proposal, as well as a request that we hold a public hearing in Hawaii. In response to those requests, we published a notice in the **Federal Register** on March 21, 1995 (60 FR 14928-14929, Docket No. 93-026-2), that extended the comment period for the proposed rule until May 26, 1995, and announced that a public hearing would be held in Honolulu, HI, on April 6, 1995.

By the close of the extended comment period, we had received a total of 251 comments. The comments were submitted by farmers; weed control committees and districts; university researchers; biological control researchers, producers, distributors, and practitioners; waste treatment and recycling facilities; composters; members of Congress; local, State, and Federal agencies; commercial laboratories; organic farmers and cooperatives; private citizens; a fish hatchery; collections and museums; industry associations; scientific societies; and foreign government agencies.

None of the commenters supported the proposed rule as written. Some commenters requested that the proposed rule be withdrawn and reconsidered, while others recommended that we incorporate changes in any final rule to be published. Many commenters disagreed with the proposed lists of regulated organisms and exempted organisms, or expressed the belief that

the proposed rule would impose unnecessary restrictions on the introduction of organisms. Finally, many commenters disagreed with APHIS' analysis of the economic impact of the proposed rule, stating that they believed that the costs of complying with the proposed regulations would be greater than APHIS had anticipated.

After considering all the comments, we have concluded that we should not proceed with a final rule based on the proposal because the revisions that would be necessary to reconcile the proposed regulations with the very diverse views expressed in the comments would be so significant that the final rule would be substantially different from the proposed rule on which the public had the opportunity to comment. Therefore, we are withdrawing the January 26, 1995, proposed rule. We do, however, plan to develop new proposed regulations to address the inadequacies in our current plant pest regulations and to provide a means of screening organisms prior to their introduction to determine the potential plant pest risks associated with such introductions. The concerns and recommendations of all those who commented on the proposed rule that we are withdrawing will be considered during the development of any new proposed regulations. Further, we will publish an advance notice of proposed rulemaking in a future issue of the **Federal Register** to solicit additional input from interested persons and to present opportunities for additional public participation in discussions of the scope, rationale, and basis of any new proposed regulations.

**Authority:** 7 U.S.C. 150aa-150jj, 151-164a, 167, and 1622(n); 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 9th day of June 1995.

**Terry L. Medley,**

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

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