

# Rules and Regulations

Federal Register

Vol. 67, No. 92

Monday, May 13, 2002

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 01-081-2]

#### Imported Fire Ant; Addition to Quarantined Areas

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the imported fire ant regulations by designating as quarantined areas all or portions of five counties in Arkansas, three counties in Georgia, eight counties in North Carolina, and four counties in Tennessee. As a result of that action, the interstate movement of regulated articles from those areas was restricted. The interim rule was necessary in order to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective on January 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles L. Brown, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-4838.

#### SUPPLEMENTARY INFORMATION:

#### Background

In an interim rule effective January 2, 2002, and published in the **Federal Register** on January 9, 2002 (67 FR 1067-1070, Docket No. 01-081-1), we amended the imported fire ant regulations contained in §§ 301.81 through 301.81-10 by adding all or portions of five counties in Arkansas,

three counties in Georgia, eight counties in North Carolina, and four counties in Tennessee to the list of quarantined areas in § 301.81-3. As a result of that action, the interstate movement of regulated articles from those areas was restricted.

Comments on the interim rule were required to be received on or before March 11, 2002. We received one comment by that date, from an association of State plant health officials. The comment supported the changes to the quarantine made by the interim rule. It also requested that the Animal and Plant Health Inspection Service consider making various other changes to the imported fire ant regulations in a separate rulemaking. We are considering those recommendations.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 67 FR 1067-1070 on January 9, 2002.

**Authority:** 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under Sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under Sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 7th day of May, 2002.

**Peter Fernandez,**

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

[FR Doc. 02-11898 Filed 5-10-02; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 01-037-1]

#### Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations concerning foot-and-mouth disease to prohibit the importation of used farm equipment from regions affected with foot-and-mouth disease unless the equipment has been steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. We are also providing that cleaned equipment that arrives at the port of arrival with a minimal amount of exposed dirt may, under certain conditions, be cleaned at the port of arrival. This action is necessary to help prevent the introduction of foot-and-mouth disease into the United States.

**DATES:** This interim rule is effective retroactively to March 31, 2001. We will consider all comments that are postmarked, delivered, or e-mailed by July 12, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-037-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-037-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body

of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-037-1" on the subject line.

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.

APHIS dockets published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Karen James-Preston, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-8364.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases, including foot-and-mouth disease (FMD). FMD is a highly communicable viral disease, not found in the United States since 1929, that affects all cloven-hoofed ruminants, especially cattle and swine. The disease is highly communicable and is characterized by fever and blisterlike lesions on the tongue and lips, in the mouth, on the teats, and between the hooves. It causes severe losses in production of meat, milk, and other dairy products. Although many affected animals survive the disease, it leaves them debilitated. Because of the highly communicable nature of FMD, it is necessary to protect livestock that are free of the disease from any animals, animal products, or other articles that might be contaminated with the FMD virus.

Section 94.1(a) of the regulations lists regions of the world that are declared free of rinderpest (another highly communicable serious disease) or free of both FMD and rinderpest. FMD or rinderpest exists in all regions of the world not listed. The provisions of § 94.1(b) of the regulations prohibit, except for very limited exceptions, the

importation into the United States of any ruminant or swine or any fresh (chilled or frozen) meat of any ruminant or swine that originates in any region in which FMD or rinderpest exists, or that enters a port that is located in or otherwise transits a region in which FMD or rinderpest exists.

Among the articles that could harbor the FMD virus is farm equipment that has been used on a premises containing infected animals and that has not been cleaned free of soil or other particulate matter from that premises.

In the past, such equipment that was imported into the United States from a region in which FMD exists has not been allowed entry into the United States without being first cleaned of dirt or other potentially contaminated matter at the port of arrival.

Although such cleaning has been effective to date in ensuring that FMD-contaminated equipment does not come into contact with U.S. livestock, it presents logistical problems that we have determined make it necessary to review such a practice. Many U.S. ports do not have facilities that allow large mechanized equipment to be cleaned in a way that ensures that soil and other particulate matter has been removed. Additionally, some ports are not constructed to allow for secure disposal of waste water and other cleaning materials.

Because of the recent increase in outbreaks of FMD in different parts of the world, we now consider it necessary to prohibit the importation of all used farm equipment into the United States from regions in which FMD exists unless the equipment meets the following conditions: (1) It has first been steam-cleaned free of exposed soil and other particulate matter in the exporting region; and (2) it is accompanied by an original certificate signed by an authorized official of the national animal health service of the region of origin stating that such cleaning has been done. Once the equipment arrives at the port of arrival, it must be inspected by an inspector of the Animal and Plant Health Inspection Service (APHIS) to confirm that it has been cleaned free of exposed soil and other particulate matter, or that the amount of any exposed soil and other particulate matter is so minimal that it can be safely removed at the port of arrival. We are adding these requirements to the regulations at a new § 94.1(c) and are redesignating the existing § 94.1(c) as § 94.1(d).

*(Please note:* The provisions we are adding at new § 94.1(c) refer to used farm equipment exported from regions listed in § 94.1(a) as those in which FMD or rinderpest exists.

Although our concern in this interim rule involves regions in which FMD exists, not regions in which rinderpest exists, all the regions currently listed as those in which FMD or rinderpest exists are currently affected with FMD. Therefore, we are using the list in § 94.1(a) with regard to used farm equipment and FMD. If it should happen that a region becomes affected with rinderpest but not FMD, we will provide in the regulations that the restrictions on farm equipment do not apply to that region.)

We consider it necessary to require certification from the exporting region that such cleaning has been done, even though inspection will also be conducted in the United States, in order for APHIS to make the best use of its personnel resources. If used farm equipment arrives at a U.S. port without an original certificate signed by an authorized official of the national animal health service of the region of origin, APHIS inspectors will not inspect the equipment and will simply not allow it to be entered into the United States. If equipment arrives at a U.S. port with the required certification from the exporting region, but is found upon APHIS inspection to contain exposed soil or other particulate matter, it will also be refused entry, unless, in the judgment of the APHIS inspector, the amount of exposed soil is minimal enough to allow cleaning at the port of arrival, and there are adequate facilities and personnel at the port to conduct such cleaning without risk of spreading disease. Whether such cleaning can be carried out at the port of arrival will be determined by factors such as, but not limited to, the availability of space, cleaning equipment, and personnel, and the presence of adequate drainage and other means of ensuring that any material potentially contaminated with the FMD virus is safely disposed of.

##### *What Constitutes Farm Equipment?*

We are adding to § 94.0 of the regulations a definition of *farm equipment* to mean "equipment used in the production of livestock or crops, including, but not limited to, mowers, harvesters, loaders, slaughter machinery, agricultural tractors, farm engines, farm trailers, farm carts, and farm wagons, but excluding automobiles and trucks." We are excluding automobiles and trucks from the definition of *farm equipment* because those vehicles are constructed in such a way that APHIS inspectors at the port of arrival can adequately clean them if necessary. The other types of equipment used on farms are more likely to contain parts and crevices from which soil and other particulate matter are not easily removed.

### *How Will We Determine Farm Equipment Has Been Used?*

Whether farm equipment is considered used will be determined at the time of inspection at the port of arrival, and will be based on its physical appearance, its description in the equipment's carrier manifest, and any accompanying trade documentation, including, but not limited to, Customs entries, container markings, certificates, and commercial invoices.

### **Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the importation into the United States of dirty equipment that has been used on farms that may be affected with FMD. Because of the highly transmissible nature of the disease, such equipment poses an unacceptable risk of introducing the FMD virus into the United States. We are making this action effective retroactively to March 31, 2001, which is the date APHIS made effective a policy stating it had stopped issuing import permits for, and would prohibit the importation of, the materials covered by this interim rule. This effective date is necessary to ensure that articles contaminated with the FMD agent are not imported into 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**. That document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we

will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

### **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 retroactive effect to March 31, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

### **Paperwork Reduction Act**

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0195 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 01-037-1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 01-037-1 and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations prohibiting the importation into the United States of used farm equipment from regions affected with FMD unless the equipment is accompanied by an original certificate, signed by an authorized official of the national animal health services of the exporting region, stating that the equipment has been steam-cleaned prior to export to the United States to remove all visible dirt and other particulate matter. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

- (1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the information collection, including the

validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.20 hours per response.

*Respondents:* Exporters of used farm equipment in FMD-affected regions; veterinary authorities in FMD-affected regions.

*Estimated annual number of respondents:* 1,000.

*Estimated annual number of responses per respondent:* 10.

*Estimated annual number of responses:* 10,000.

*Estimated total annual burden on respondents:* 2,000 hours.

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

### **List of Subjects in 9 CFR Part 94**

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

### **PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS**

1. The authority citation for part 94 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

2. In § 94.0, a new definition of *Farm equipment* is added, in alphabetical order, to read as follows:

#### **§ 94.0 Definitions**

\* \* \* \* \*

*Farm equipment.* Equipment used in the production of livestock or crops, including, but not limited to, mowers, harvesters, loaders, slaughter machinery, agricultural tractors, farm

engines, farm trailers, farm carts, and farm wagons, but excluding automobiles and trucks.

3. Section 94.1 is amended as follows:

a. In paragraph (b)(2), by removing the words "paragraph (c)" and adding the words "paragraph (d)" in their place.

b. By redesignating paragraph (c) as paragraph (d).

c. By adding a new paragraph (c) to read as set forth below.

d. By revising the OMB control number citation at the end of the section to read as set forth below.

**§ 94.1 Regions where rinderpest or foot-and-mouth disease exists; importations prohibited.**

\* \* \* \* \*

(c) The importation of any used farm equipment that originates in any region where rinderpest or foot-and-mouth disease exists, as designated in paragraph (a) of this section, is prohibited, unless the equipment is accompanied by an original certificate signed by an authorized official of the national animal health service of the exporting region that states that the equipment, after its last use and prior to export, was steam-cleaned free of all exposed dirt and other particulate matter. Such farm equipment is subject to APHIS inspection at the port of arrival. If it is found during such inspection to contain any exposed dirt or other particulate matter, it will be denied entry into the United States, unless, in the judgment of the APHIS inspector, the amount of exposed soil is minimal enough to allow cleaning at the port of arrival, and there are adequate facilities and personnel at the port to conduct such cleaning without risk of disease contamination.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control numbers 0579-0015 and 0579-0195)

Done in Washington, DC, this 7th day of May 2002.

**Peter Fernandez,**

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

[FR Doc. 02-11896 Filed 5-10-02; 8:45 am]

**BILLING CODE 3410-34-U**

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

**RIN 3150-AG94**

**List of Approved Spent Fuel Storage Casks: NAC-MPC Revision; Confirmation of Effective Date**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is confirming the effective date of May 29, 2002, for the direct final rule that appeared in the **Federal Register** of March 15, 2002 (67 FR 11566). This direct final rule amended the NRC's regulations by revising the NAC-MPC cask system listing within the "List of approved spent fuel storage casks" to include Amendment No. 2 to Certificate of Compliance No. 1025. This document confirms the effective date.

**DATES:** The effective date of May 29, 2002 is confirmed for this direct final rule.

**ADDRESSES:** Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking website (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking website, contact Ms. Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6219 (e-mail: [jmm2@nrc.gov](mailto:jmm2@nrc.gov)).

**SUPPLEMENTARY INFORMATION:** On March 15, 2002 (67 FR 11566), the NRC published in the **Federal Register** a direct final rule amending its regulations in part 72 by revising the NAC International Multi-Purpose Canister (NAC-MPC) cask system listing within the "List of approved spent fuel storage casks" to include Amendment 2 to Certificate of Compliance (CoC) No. 1025. This amendment allows for modification of the design of the cask system to accommodate a new type of fuel. The modifications include increased length of the fuel basket and canister, transfer cask, and vertical concrete cask. Changes also include a redesigned fuel basket to accommodate 26 fuel assemblies, with an alternate 24-

fuel assembly configuration and increased transfer cask radial shielding. The CoC has been revised in its entirety to include a reference to the new type of fuel and a revised format. The Technical Specifications (TS) have also been revised in their entirety to include specifications for the new type of fuel, new operational limits, and to incorporate a revised format for the TS. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on May 29, 2002. The NRC did not receive any comments on the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 7th day of May, 2002.

For the Nuclear Regulatory Commission.

**Michael T. Lesar,**

*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

[FR Doc. 02-11874 Filed 5-10-02; 8:45 am]

**BILLING CODE 7590-01-P**

**FARM CREDIT ADMINISTRATION**

**12 CFR Parts 611 and 614**

**RIN 3052-AB86**

**Organization; Loan Policies and Operations; Termination of Farm Credit Status; Effective Date**

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA) published a final rule under parts 611 and 614 on April 12, 2002 (67 FR 17907). This final rule amends our regulations to allow a Farm Credit System (FCS or System) bank or association to terminate its FCS charter and become a financial institution under another Federal or State chartering authority. Our purpose is to amend the existing regulations so they apply to all System banks and associations and to make other changes. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 13, 2002.

**EFFECTIVE DATE:** The regulation amending 12 CFR parts 609 and 620 published on April 12, 2002 (67 FR 17907) is effective May 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** Alan Markowitz, Senior Policy Analyst, Office of Policy and Analysis, Farm