

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 02-031-1]

#### Pink Bollworm Regulated Areas; Removal of Oklahoma

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

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

**SUMMARY:** We are amending the pink bollworm regulations by removing the State of Oklahoma from the lists of quarantined States and regulated areas. Statewide trapping surveys conducted over the last 2 years have shown Oklahoma to be free of pink bollworm. This action will relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary.

**DATES:** This interim rule is effective May 16, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 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. 02-031-1, 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. 02-031-1. 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. 02-031-1" 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 documents 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:** Mr. William J. Grefenstette, Assistant Director, Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 138, Riverdale, MD 20737-1231; (301) 734-8676.

#### SUPPLEMENTARY INFORMATION:

##### Background

The pink bollworm (*Pectinophora gossypiella* (Saunders)) is a destructive cotton pest found throughout many of the cotton-growing regions of the world. The larvae of the pink bollworm feed inside growing cotton bolls, destroying the cotton.

The regulations in Subpart—Pink Bollworm (7 CFR 301.52 through 301.52-10, referred to below as the regulations) contain quarantine restrictions aimed at preventing the spread of the pink bollworm. Section 301.52 contains, among other things, lists of quarantined States and regulated articles. These regulated articles include cotton, cotton seed, lint and linters, cotton waste, and other articles associated with cotton, as well as other commodities, such as kenaf and okra, on which the pink bollworm also feeds. These articles must meet specific certification, permitting or safeguarding requirements when moving between States or areas. Section 301.52-2a lists regulated areas, which are divided into two types, suppressive areas and generally infested areas. Section 301.52-3 outlines conditions governing the interstate movement of regulated articles from quarantined States.

The State of Oklahoma has been listed in § 301.52 as a quarantined State and, in the list of regulated areas in § 301.52-

2a, the entire State has been designated as a generally infested area. However, Statewide trapping surveys conducted over the last 2 years have shown Oklahoma to be free of pink bollworm. Areas found to be free of pink bollworm infestation for at least 2 years meet our standards for removal from lists of quarantined States and regulated areas. Because Oklahoma has been free of pink bollworm for at least 2 years, we are amending the regulations by removing Oklahoma from the lists of quarantined States in § 301.52 and regulated areas in § 301.52-2a.

#### Miscellaneous

In addition to the provisions of this interim rule discussed above, we are also making two nonsubstantive editorial changes to § 301.52-1 in this document. First, we are removing the paragraph designations from the definitions in that section for the sake of consistency with our other regulations in title 7, where the definitions are set out in alphabetical order without paragraph designations. Second, we are revising the footnote that appears in the definition of *Treatment manual* so that the footnote accurately describes the Plant Protection and Quarantine Treatment Manual's incorporation by reference.

#### Immediate Action

Immediate action is warranted to relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary. 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 action 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**. The 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. For this action,

the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are amending the pink bollworm regulations by removing the State of Oklahoma from the lists of quarantined States in § 301.52 and regulated areas in § 301.52–2a. Statewide trapping surveys conducted over the last 2 years have shown that Oklahoma has been free of pink bollworm during that entire period and has, therefore, met our standards for removal from the lists cited above. This action will relieve restrictions on the interstate movement of regulated articles from Oklahoma that are no longer necessary.

The entities most likely to be affected by this action are Oklahoma cotton producers. In 1997, there were 849 cotton farms in Oklahoma, which produced \$50.89 million worth of cotton.<sup>1</sup> On average then, each farm produced approximately \$60,000 worth of cotton. Under the guidelines of the Small Business Administration, a small cotton farm is described as having \$750,000 or less in annual revenue. Approximately 99 percent of all cotton farms in Oklahoma in 1997 could be classified as small entities.

The largest quarantine-related expenses for small cotton growers in Oklahoma would have resulted from the treatment requirements that apply to used cotton harvesting, ginning, and oil mill equipment, cotton seed, and raw (non-ginned) cotton being moved interstate. These requirements appear to have had little economic effect; their removal should also have little effect.

Cotton producers in Oklahoma have been required to clean their used cotton harvesting, ginning, or oil mill equipment if moving it interstate to a non-quarantined area. APHIS personnel in Oklahoma estimate that the average cost to have that equipment cleaned and cleared for interstate movement varies from \$300 to \$700 per machine. While no data are currently available, it is believed that very few cotton producers in Oklahoma incur these costs because very few move machinery out of the State.

Cotton seed and raw cotton produced in a regulated area must be fumigated before being moved interstate to non-quarantined areas. Current costs to Oklahoma cotton producers for this fumigation are not available, due to the lack of interstate movement of cotton seed and raw cotton from Oklahoma over the last several years. The presence of more-than-adequate facilities within the State for processing cotton seed and ginning raw cotton means that

producers do not need to move cotton seed or raw cotton across State lines for these purposes.

In summary, removing Oklahoma from the lists of quarantined States and regulated areas for pink bollworm is expected to have little or no economic impact on small entities. Any effects that do occur will likely be positive.

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 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 interim 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. 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).

#### § 301.52 [Amended]

2. In § 301.52, paragraph (a) is amended by removing the word “Oklahoma.”.

3. In § 301.52–1, the paragraph designations are removed, and footnote 2 is revised to read as follows:

#### § 301.52–1 Definitions.

\* \* \* \* \*

<sup>2</sup>The Plant Protection and Quarantine Treatment Manual is incorporated by reference at § 300.1 of this chapter.

#### § 301.52–2a [Amended]

4. Section 301.52–2a is amended by removing the entry for Oklahoma.

Done in Washington, DC, this 10th day of May, 2002.

**Peter Fernandez,**

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

[FR Doc. 02–12250 Filed 5–15–02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000–NM–198–AD; Amendment 39–12747; AD 2002–10–01]

RIN 2120–AA64

#### Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes, that requires modification of the main battery ground stud and installation of a nameplate which indicates torque requirements for the ground stud nut. The actions specified by this AD are intended to prevent the ground stud nut from being inadequately tightened or becoming loose, which could result in electrical arcing between the ground stud and the adjacent structure, leading to damage to electrical or electronic equipment or possibly to fire in the airplane.

**DATES:** Effective June 20, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2002.

**ADDRESSES:** The service information referenced in this AD may be obtained

<sup>1</sup> 1997 Census of Agriculture.