

E.; then east to the southwest corner of sec. 35, T. 1 S., R. 4 E., then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northeast corner of sec. 33, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northeast corner of sec. 19, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the southwest corner of sec. 3, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 3, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 2, T. 1 S., R. 6 E.; then south to the southeast corner of sec. 2, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1 S., R. 7 E.; then south to the northwest corner of sec. 5, T. 2 S., R. 7 E.; then east to the northeast corner of sec. 3, T. 2 S., R. 7 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 7 E.; then east to the northeast corner of sec. 36, T. 1 S., R. 7 E. and the Maricopa/Pinal County line; then south along the Maricopa/Pinal County line to the southeast corner of sec. 36, T. 2 S., R. 7 E.; then east along the Maricopa/Pinal County line to the point of beginning.

\* \* \* \* \*

*Pinal County.* (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 31, T. 1 S., R. 8 E.; then east to the northeast corner of sec. 32, T. 1 S., R. 8 E.; then south to the northwest corner of sec. 4, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 4, T. 2 S., R. 8 E., then south to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then west to the northeast corner of sec. 32, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 32, T. 2 S., R. 8 E.; then west to the Maricopa/Pinal County line; then north along the Maricopa/Pinal County line to the point of beginning.

\* \* \* \* \*

#### California

\* \* \* \* \*

*Riverside County.* Beginning at the intersection of the Colorado River and 8th Avenue; then west on 8th Avenue to Lovekin Boulevard; then south on Lovekin Boulevard to 10th Avenue; then west on 10th Avenue to Arrowhead Avenue; then south on Arrowhead Avenue to Hobson Way; then west on Hobson Way to Neighbours Boulevard; then south on Neighbours Boulevard to 14th Avenue; then west on 14th Avenue approximately 0.84 mile to the edge of the irrigated production area; then south and west along the edge of the irrigated production area to a point on Keim Boulevard approximately 0.27 mile south of the intersection of Keim

Boulevard and 16th Avenue; then south on Keim Boulevard to 28th Avenue; then east on 28th Avenue to Arrowhead Avenue; then south on Arrowhead Avenue to 30th Avenue; then east on 30th Avenue to the Colorado River; then north along the Colorado River to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 29th day of December, 2003.

**Kevin Shea,**

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

[FR Doc. 04-78 Filed 1-2-04; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 03-082-1]

#### Golden Nematode; Regulated Areas

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

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

**SUMMARY:** We are amending the golden nematode regulations by adding a field in Steuben County, NY, to the list of generally infested regulated areas. This action is necessary to prevent the artificial spread of golden nematode to noninfested areas of the United States.

**DATES:** This interim rule is effective January 5, 2004. We will consider all comments that we receive on or before March 5, 2004.

**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. 03-082-1, 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. 03-082-1. 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. 03-082-1" 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:** Dr. Vedpal Malik, Agriculturalist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-6774.

#### SUPPLEMENTARY INFORMATION:

##### Background

The golden nematode (*Globodera rostochiensis*) is a destructive pest of potatoes and other solanaceous plants. Potatoes cannot be economically grown on land which contains large numbers of the nematode. The golden nematode has been determined to occur in the United States only in parts of New York.

The golden nematode regulations (contained in 7 CFR 301.85 through 301.85-10 and referred to below as the regulations) list two entire counties and portions of seven other counties in the State of New York as regulated areas and restrict the interstate movement of regulated articles from those areas. Such restrictions are necessary to prevent the artificial spread of the golden nematode to noninfested areas of the United States.

Regulated areas are those areas in which the golden nematode has been found or in which there is reason to believe that the golden nematode is present, or those areas which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The regulations provide that less than an entire State may be designated as a regulated area only if the Deputy Administrator determines that the State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of the regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of the articles and the designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the golden nematode.

Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas where eradication of the golden nematode is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from generally infested areas and suppressive areas in order to prevent the infestation of areas where the golden nematode does not occur.

Recent surveys conducted by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of golden nematode has occurred in one field outside the regulated area in Steuben County, NY. New York has quarantined the infested area and is restricting the intrastate movement of regulated articles from that area to prevent the further spread of golden nematode. However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the regulated areas to prevent the spread of golden nematode to other States and other countries.

In accordance with the criteria for listing regulated areas, we are amending the list of regulated areas in § 301.85–2a to include an additional part of Steuben County, NY, in response to the recent golden nematode findings described above. The regulated area is described in the rule portion of this document. Maps of the regulated area are available by writing to the person listed under **FOR FURTHER INFORMATION CONTACT** or from local offices of Plant Protection and Quarantine.

In addition to amending the entry for Steuben County, NY, to reflect the addition of a field to the regulated area, we have also divided that entry into subparagraphs so that it is easier to read.

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to prevent the artificial spread of golden nematode to noninfested areas of 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**. The document will include a discussion of any comments

we receive and any amendments we are making to the rule.

#### **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 under Executive Order 12866.

We are amending the golden nematode regulations by adding a field in Steuben County, NY, to the list of generally infested regulated areas. This action is necessary to prevent the artificial spread of golden nematode to noninfested areas of the United States.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities and to use flexibility to provide regulatory relief when regulations create economic disparities between different sized entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create economic disparities based on size when they have significant economic impact on a substantial number of small entities.

Potato farms are classified as small businesses if they receive less than \$750,000 in annual sales receipts. The U.S. Department of Agriculture's National Agricultural Statistics Service does not publish data on farm size for New York potato farms. However, it is likely that the regulated 30-acre farm in Steuben County qualifies as a small business as defined by the SBA.

In the United States, the potato is the leading vegetable in terms of acreage and farm value. About 1.3 million acres are grown for a total production yield of 31.4 billion pounds, worth \$2.5 billion in farm receipts. Over 60 percent of U.S. potato production is processed. Growth in the chip market alone has averaged about 11 percent per year over the past 8 years, resulting in a \$4 billion industry. The market for exported, processed potatoes is a rapidly growing one.

Golden nematode infestation of potatoes and other solanaceous plants (e.g., tomatoes, eggplants) poses a threat to New York's agricultural economy. New York State is the twelfth largest potato producer nationwide, with an average of 25,000 acres of potatoes harvested annually. According to the New York Agricultural Statistics Service, New York State had approximately 22,200 planted acres of potatoes with a production value totaling \$64.9 million. About 55 percent of New York State's potato production is destined for the fresh market, 40 percent for processing, and 5 percent for

seed and livestock feed. New York State potatoes and potato products are primarily consumed locally and within the northeastern portion of the United States. In 2001, the production value of major solanaceous plants in New York was \$92.4 million.

The additional costs associated with our designation of the new regulated area in Steuben County are very small relative to the benefits gained from agricultural sales. For example, the treatment costs for the infected fields are borne by APHIS and not the farmer. The only inconvenience to the farm operator might be that potatoes or any other solanaceous plants may be planted only every other year until the infestation is determined to be over. In the years when potatoes and other solanaceous plants may be planted, farm operators may move such articles without treatment. In the event that the farm operator needs to move farm equipment outside the farm, that equipment must first be treated, either chemically or with steam. The costs of treatment are borne by APHIS. It takes one 8-hour day for a Plant Protection and Quarantine officer and a technician to steam treat farm equipment, including the time required to set up and tear down the treatment site. Since the farm operator does not have to pay for any aspect of this treatment, this rule will not have any adverse economic impact on this farm.

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 rule contains no new 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. 7701–7772; 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).

■ 2. In § 301.85–2a, under the heading “New York”, the entry for Steuben County is revised to read as follows:

#### § 301.85–2a Regulated areas; suppressive and generally infested areas.

\* \* \* \* \*

#### New York

(1) Generally infested area:

\* \* \* \* \*

*Steuben County.* (A) The towns of Prattsburg and Wheeler;

(B) That area known as “Arkport Muck” located in the town of Dansville and bounded by a line beginning at a point where the Conrail right-of-way (Erie Lackawanna Railroad) intersects County Road 52 (known as Burns Road), then north and northeast along County Road 52 to its junction with New York Route 36, then south and southeast along New York Route 36 to its intersection with the Dansville Town line, then west along the Dansville Town line to its intersection with the Conrail right-of-way (Erie Lackawanna Railroad), then north and northwest along the Conrail right-of-way to the point of beginning;

(C) The Werth, Dale farm, known as the “Werthwhile Farm,” located in the town of Cohocton on the north side of County Road 5 (known as Brown Hill Road), and 0.2 mile west of the junction of County Road 5 with County Road 58 (known as Wager Road); and

(D) The property located in the town of Fremont that is bounded as follows: Beginning at a point on Babcock Road that intersects a farm road marked by latitude/longitude coordinates 42°26′12.5″, –77°34′30.4″; then west along the farm road to coordinates 42°26′12.2″, –77°34′41.0″; then south to

coordinates 42°26′09.6″, –77°34′40.9″; then west to coordinates 42°26′09.4″, –77°34′50.7″; then south to coordinates 42°26′00.7″, –77°34′50.3″; then east to coordinates 42°25′59.9″, –77°34′40.4″; then south to coordinates 42°25′54.7″, –77°34′40.0″; then east to coordinates 42°25′56.3″, –77°34′37.7″; then north to coordinates 42°25′58.9″, –77°34′35.0″; then east to coordinates 42°25′58.9″, –77°34′34.1″; then north to coordinates 42°26′05.8″, –77°34′32.5″; then east to coordinates 42°26′05.7″, –77°34′29.9″; then north to the point of beginning at coordinates 42°26′12.5″, –77°34′30.4″.

\* \* \* \* \*

Done in Washington, DC, this 29th day of December, 2003.

**Kevin Shea,**

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

[FR Doc. 04–79 Filed 1–2–04; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 718

#### Commodity Credit Corporation

#### 7 CFR Part 1480

#### RIN 0560–AG79 and 0560–AG95

### Acres Reporting and Common Provisions; 2001 and 2002 Crop Disaster Program; Correction

**AGENCIES:** Farm Service Agency, Commodity Credit Corporation, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects final rules published on April 3, 2003, and June 26, 2003, that established provisions applicable to multiple programs of the agencies, and regulations for the 2001 and 2002 Crop Disaster Program. Corrections are necessary for provisions that conflict with statute or other program requirements and are intended to ensure that Agency regulations are properly written and implemented. These changes will apply retroactively to actions taken under the subject rules since their effective date.

**DATES:** Effective on December 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Virgil Ireland, at 202–720–5103 or [virgil.Ireland@usda.gov](mailto:virgil.Ireland@usda.gov), or Jan Jamrog, at 202–690–0926 or [jan.jamrog@usda.gov](mailto:jan.jamrog@usda.gov).

**SUPPLEMENTARY INFORMATION:**

### Discussion of Corrections

1. This document corrects the rule amending 7 CFR part 718, Provisions Applicable to Multiple Programs, published in the **Federal Register** on April 3, 2003 (68 FR 16170) under the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) (the 2002 Act). 7 CFR part 718 governs how FSA monitors marketing quotas, allotments, base acres and acreage reports. The corrections are as follows:

A. *Crop definitions.* The first correction is in 7 CFR 718.2, adding to the definitions of Extra Long Staple (ELS) Cotton, Rice and Upland cotton the phrase “that follows the standard planting and harvesting practices for the [specific crop] for the area in which the [specific crop] is grown.” This will make the definitions consistent with those for other crops. For example, the definition of corn in § 718.2 includes the phrase “that follows the standard planting and harvesting practices for corn for the area in which the corn is grown \* \* \*” This change clarifies the provision that a program participant cannot receive planting credit for acreage that does not comply with minimum requirements and ensures that it is correctly applied. Other clarifying changes are also made.

B. *Controlled Substance.* The second correction is in 7 CFR 718.6(b)(3), which provides that a person convicted of trafficking in or possession of a controlled substance shall be ineligible for any or all USDA benefits for stated periods of time. This provision is included pursuant to 21 U.S.C. 862, which provides that a court may deny eligibility for certain Federal benefits to an individual convicted of distribution or possession of a controlled substance. “Federal benefit” is defined in 21 U.S.C. 862(d) to mean “any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States” but “does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The period of ineligibility under this provision is a determination of the court, not FSA. Therefore, section 718.6 is revised by combining paragraph 718.6(b)(3) with paragraph 718.6(b)(2), which already contains the correct provision.

C. *Signature Requirements.* The third correction is in 7 CFR 718.9(a), which states “When a program authorized by this chapter and parts 1410 and 1413 of