Rules and Regulations

Federal Register
Vol. 66, No. 150
Friday, August 3, 2001

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–075–5]

Mexican Fruit Fly Regulations; Regulated Areas, Regulated Articles, and Treatments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules as final rule.

SUMMARY: We are adopting as a final rule, without change, a series of interim rules published in the **Federal Register** between September 1999 and June 2000 that amended the Mexican fruit fly regulations by adding and subsequently removing regulated areas in the State of California. One of the interim rules also added an alternative chemical treatment for premises; added a cold treatment for citrons, litchis, longans, persimmons, and white zapotes, which are regulated articles; and removed kumquats from the list of regulated articles. These actions were necessary on an emergency basis to prevent the spread of the Mexican fruit fly into noninfested areas of the continental United States, to provide additional treatment options for regulated articles, and to relieve unnecessary restrictions on the movement of kumquats from regulated areas.

EFFECTIVE DATES: The interim rules became effective September 22, 1999, December 14, 1999, April 12, 2000, and June 7, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Knight, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8039.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective September 22, 1999, and published in the **Federal Register** on September 28, 1999 (64 FR 52211–52212, Docket No. 99–075–1), we amended the regulations by designating portions of San Bernardino and Riverside Counties, CA, as regulated areas because of an infestation of Mexican fruit fly. In a second interim rule effective December 14, 1999, and published in the **Federal Register** on December 21, 1999 (64 FR 71267–71270, Docket No. 99–075–2), we added a portion of San Diego and Riverside Counties, CA, to the list of regulated areas. In addition, the December 1999 interim rule provided for the use of a new alternative chemical treatment for premises; provided for the use of a cold treatment for citrons, litchis, longans, persimmons, and white zapotes; and removed kumquats from the list of regulated articles. In a third interim rule effective April 12, 2000, and published in the **Federal Register** on April 18, 2000 (65 FR 20705–20706, Docket No. 99–075–3), we removed the regulated portion of San Bernardino and Riverside Counties, CA, from the list of regulated areas based on our determination that the Mexican fruit fly had been eradicated from that area. Finally, in a fourth interim rule effective on June 7, 2000, and published in the **Federal Register** on June 13, 2000 (65 FR 37005–37006, Docket No. 99–075–4), we removed the regulated portion of San Diego and Riverside Counties, CA, from the list of regulated areas based on our determination that the Mexican fruit fly had been eradicated from those areas. Upon the effective date of our June 2000 interim rule, there were no longer any areas in California designated as regulated areas because of the Mexican fruit fly.

Comments on each interim rule were required to be received on or before 60 days after the date of its publication in the **Federal Register**. We did not receive any comments on any of the interim rules. Therefore, for the reasons given in the interim rules, we are adopting the interim rules as a final rule.

This action affirms the information contained in the interim rules concerning Executive Orders 12866, 12372, 12988, the Paperwork Reduction Act, and the information contained in the September 1999 and April 2000 interim rules concerning the Regulatory Flexibility Act.

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

Regulatory Flexibility Act

The following analysis addresses the economic effects and data available to us regarding the actions taken in our December 1999 and June 2000 interim rules.

Regulated Area

In our December 1999 interim rule, we added a portion of San Diego and Riverside Counties, CA, to the list of areas regulated because of the Mexican fruit fly. Within this regulated area, there are approximately 2,090 small entities that may have been affected by the interim rule. These include 2,000 growers operating on 11,400 acres (72 square miles), 38 packing houses, 50 fruit sellers, and 2 farmers markets. The 2,090 entities, most of which we expect are small entities under Small Business Administration criteria, comprise less than 1 percent of the total number of similar entities operating in the State of California.

Those small entities sell regulated articles primarily for local intrastate, not interstate, movement; therefore, the distribution of regulated articles by those entities was not affected by the interstate movement restrictions contained in the regulations. Many of those entities also handle other items in addition to regulated articles. The effect on those few entities that do move regulated articles interstate was minimized by the availability of various treatments that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost. Therefore, the economic effect, if any, of the December 1999 interim rule on these entities appears to be minimal. In our June 2000 interim rule, we removed that portion of San Diego and Riverside Counties, CA, from the list of areas regulated because of the Mexican fruit fly and removed California from the list of States regulated because of the Mexican fruit fly. The June 2000 interim rule removed restrictions on the interstate movement of regulated articles from that portion of San Diego and Riverside Counties, CA.

In our December 1999 interim rule, we specifically invited comments concerning the potential economic effects of that interim rule on small entities. In particular, we requested information that would enable us to determine the number and kind of small entities that might incur benefits or costs from the implementation of the interim rule, including the new treatments for premises and regulated articles contained in that interim rule. We did not receive any comments. Based on the available information, the economic effect of the actions taken in our December 1999 and June 2000 interim appears to be minimal.

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.

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 rules that amended 7 CFR part 301 and that were published at 64 FR 52211–52212 on September 28, 1999; 64 FR 71267–71270 on December 21, 1999; 65 FR 20705–20706 on April 18, 2000; and 65 FR 37005–37006 on June 13, 2000.

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 27th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–19515 Filed 8–2–01; 8:45 am]

BILLING CODE 3410–34–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 709

Involuntary Liquidation of Federal Credit Unions and Adjudication of Creditor Claims Involving Federally-Insured Credit Unions in Liquidation

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a final rule clarifying that as conservator or liquidating agent of a federally-insured credit union, the NCUA Board (Board) will honor a claim for prepayment fees by a Federal Home Loan Bank under the circumstances set forth in the rule.

DATES: The rule is effective September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Chrisanthy J. Loizos, Staff Attorney, Division of Operations, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: The Board issued an interim final rule addressing a statutory exception to the Board's repudiation powers, when acting as a conservator or liquidating agent, for extensions of credit from a Federal Home Loan Bank to a federally-insured credit union. 66 FR 11229 (Feb. 23, 2001). The final rule is identical to the interim final rule except for one minor technical amendment that corrects an inaccurate statutory citation.

Federally-insured credit unions (FICUs) are eligible for membership at the Federal Home Loan Bank (FHLB) in their district provided they meet certain statutory requirements. 12 U.S.C. 1422(12)(B), 1424. As a member of an FHLB, an FICU may obtain a variety of advances for the purpose of providing funds for housing loans. *See* 12 U.S.C. 1430(a), (j).

The Board, when acting as a conservator or liquidating agent of an FICU, has the discretion to disaffirm or repudiate contracts or leases (i) to which the FICU is a party; (ii) the performance of which the Board determines to be burdensome; and (iii) the disaffirmance or repudiation of which the Board determines will promote the orderly administration of the FICU's affairs. 12 U.S.C. 1787(c)(1). The Federal Credit Union Act establishes an exception to the Board's authority to repudiate contracts entered into by an FICU before the Board is appointed the FICU's conservator or liquidating agent. The Board may not repudiate a contract regarding an extension of credit from any FHLB to an FICU. 12 U.S.C. 1787(c)(13).

The final rule sets forth the circumstances under which the Board, as conservator or liquidating agent, will honor a claim for prepayment fees by an FHLB when an FICU has an outstanding extension of credit with the FHLB. The rule allows the payment of a prepayment fee to an FHLB if set forth in a written contract, provided: (1) That the fee does not exceed the present value of any economic loss suffered by the FHLB; and, (2) the collateral is sufficient to pay in full the principal and interest due on secured advances and the applicable prepayment fee.

The rule tracks one used by the Federal Deposit Insurance Corporation (FDIC) when federally-insured banks with extensions of credit from an FHLB are conserved or placed in receivership. *See* 12 CFR 360.2(e). Like the Board, the FDIC has the statutory authority to repudiate contracts when appointed conservator or receiver for a bank under section 11(e) of the Federal Deposit Insurance Act, but it is prohibited from repudiating extension of credit agreements with FHLBs. 12 U.S.C. 1821(e).

Comments

The comment period ended on April 24, 2000. The Board received eight comments on the interim final rule. One credit union, one national credit union trade group, three state credit union leagues, one corporate credit union, one corporate credit union trade group and an association representing state regulators nationwide submitted comments. Of the commenters who commented on the general merits of the rule, all supported the Board's adoption of the rule. One commenter noted that the statutory provision that prohibits the Board from repudiating terms of a loan agreement with a FHLB is adequate without a rule. Two commenters stated that the rule places credit unions on equal footing with other depository institutions that obtain advances from FHLBs. One commenter specifically mentioned that prior to the rule, certain FICUs could not obtain long-term advances from the FHLB in their district.

Five commenters requested the Board extend the application of the rule to loan advances from corporate credit unions. One expressed concern that the rule shows a preference for FHLBs, but acknowledged that the rule is consistent with the statutory prohibition. This commenter noted that corporate credit