

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

9 CFR Part 72

[Docket No. 96-067-1]

Texas (Splenetic) Fever in Cattle; Incorporation by Reference

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Texas (splenic) fever in cattle regulations by removing the section that describes the area of Texas quarantined because of ticks and replacing it with an incorporation by reference of the Texas Animal Health Commission's regulations that describe the same area. Because the quarantined area in Texas is defined and established by the Texas Animal Health Commission and an up-to-date description of the quarantined area is provided in the commission's regulations in the Texas Administrative Code, we do not believe that it is necessary to reproduce that description in our regulations. This proposed change in the regulations would eliminate the need to maintain a description of the Texas quarantined area in our regulations, thus reducing the volume of material included in those regulations, while continuing to provide for the treatment and inspection of cattle moved from the area of Texas quarantined for ticks.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by June 11, 1999.

ADDRESSES: Please send your comment and three copies to Docket No. 96-067-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 96-067-1.

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 rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Dave Wilson, Senior Staff Veterinarian, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737-1231; (301) 734-8073; or e-mail: Dave.D.Wilson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 72, "Texas (Splenetic) Fever in Cattle" (referred to below as the regulations), restrict the interstate movement of cattle from areas quarantined because of the presence of ticks that are vectors of bovine babesiosis. This disease is referred to in the regulations as splenic or tick fever. Splenic or tick fever is a contagious, infectious, and communicable disease of cattle that causes cattle to become weak and dehydrated and can cause death. The areas quarantined because of ticks include all of Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, as well as portions of Texas. These quarantined areas are described in §§ 72.3 and 72.5 of the regulations.

The quarantined area in Texas is defined and established by the Texas Animal Health Commission (TAHC) in its regulations in the Texas Administrative Code as part of that agency's program to control and eradicate fever ticks within Texas. The Animal and Plant Health Inspection Service (APHIS) reproduces the TAHC's description of the quarantined area in § 72.5 of the regulations in order to define the area of Texas from which the interstate movement of cattle is restricted to prevent the spread of splenic or tick fever from that State.

During a review of our existing regulations, we concluded that the description of the quarantined area in Texas was not in agreement with the most recent description of that area promulgated by the TAHC in its regulations. Further, we concluded that it would be possible to omit the description of the quarantined area in Texas from our regulations, thereby eliminating six full pages of text from part 72, without negatively affecting our ability to provide for the inspection and treatment of cattle moved interstate from the Texas quarantined area.

We based this latter conclusion on the fact that all affected livestock owners within the Texas quarantined area are notified of their status by the TAHC under §§ 167.006 and 167.023 of the Texas Agriculture Code, and on the fact that the boundaries of the quarantined area in Texas are described in the TAHC's regulations in § 41.2 of title 4, part II, Texas Administrative Code (4 TAC 41.2). On the basis of those findings, we are proposing to remove the description of the Texas quarantined area in § 72.5 of our regulations and incorporate 4 TAC 41.2 by reference, thus ensuring that the inspection and treatment requirements of part 72 continue to be linked to a readily available description of the quarantined area in Texas.

The requirements of the Office of the Federal Register regarding the proper language of incorporation, which are found in 1 CFR 51.9(b), state that the language incorporating a publication by reference is precise and complete if it: (1) Uses the words "incorporated by reference;" (2) states the title, date, edition, author, publisher, and identification number of the publication; (3) informs the user that the incorporated publication is a requirement; (4) makes an official showing that the publication is in fact available by stating where and how copies may be examined and readily obtained with maximum convenience to the user; and (5) refers to 5 U.S.C. 552(a).

To comply with those requirements, we are proposing to revise § 72.5 to state that the area quarantined in Texas is the permanent quarantined area described in 4 TAC 41.2, which is incorporated by reference. Section 72.5 would also state that the incorporation by reference was approved by the Director of the Federal

Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and that copies of 4 TAC 41.2 may be obtained from the central office of the TAHC at 2105 Kramer Lane, Austin, TX 78758, or from area offices, which are listed in local Texas telephone directories, or from the TAHC's Internet homepage (www.tahc.state.tx.us/). Finally, § 72.5 would inform the reader that copies may also be inspected at APHIS' offices in Riverdale, MD, or at the Office of the Federal Register in Washington, DC.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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 proposed rule would amend the Texas (splenic) fever in cattle regulations to incorporate by reference the description of fever tick eradication areas contained in the Texas Administrative Code. Incorporating the TAHC's description of fever tick eradication areas by reference rather than continuing to reproduce the description in our regulations would eliminate the need for APHIS to maintain an up-to-date description of the quarantined area in Texas and reduce the volume of material included in our regulations, while continuing to provide for the treatment and inspection of cattle moved from the tick eradication area in Texas.

Our proposal to incorporate the description of fever tick eradication areas in Texas contained in the Texas Administrative Code is not expected to have an economic impact on any entities, large or small, because the description of Texas' tick eradication areas, which are defined and established by the TAHC, have merely been reproduced in APHIS' regulations in part 72. There would be no change in the quarantined area in Texas as a result of its description being removed from part 72, so no livestock or property owners in Texas would be affected by this proposed rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required 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.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 72

Animal diseases, Cattle, Quarantine, Transportation.

Accordingly, we are proposing to amend 9 CFR part 72 as follows:

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

1. The authority citation for part 72 would continue to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 72.5 would be revised to read as follows:

§ 72.5 Area quarantined in Texas.

The area quarantined in Texas is the permanent quarantined area described in the regulations of the Texas Animal Health Commission (TAHC) in § 41.2 of title 4, part II, of the Texas Administrative Code (4 TAC 41.2), which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the TAHC at 2105 Kramer Lane, Austin, TX 78758, and from area offices of the TAHC, which are listed in local Texas telephone directories. The TAHC also maintains a copy of its regulations on its Internet homepage at <http://www.tahc.state.tx.us/>. Copies may be inspected at the Animal and Plant

Health Inspection Service, Veterinary Services, Emergency Programs, Suite 3B08, 4700 River Road, Riverdale, MD, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Done in Washington, DC, this 6th day of April 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–9007 Filed 4–9–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

RIN 1076–AD90

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: On September 18, 1980, we issued the first regulations governing the exercise of the Secretary of the Interior's authority to accept title to land in the name of the United States to be held in trust for the benefit of Indian tribes and individual Indians (*i.e.*, to "take land into trust"). These regulations have not undergone substantial revision since their adoption. We now propose to amend these regulations to make clearer that we will follow a process that is somewhat different, and we will apply a standard which is somewhat more demanding when a land-into-trust application involves title to lands which are located outside the boundaries of a reservation ("off-reservation lands"). In contrast, when the application involves lands located inside the boundaries of a reservation ("on-reservation lands"), we will apply a process and a standard which reflect a presumption in favor of acquisition of trust title to those lands. In addition, the proposed rule sets out the process we will use to comply with a mandate from Congress directing us to use our administrative procedures to place a particular tract of land into trust. Finally, the proposed rule establishes a framework in which a tribe without a reservation can establish a geographic boundary within which it may acquire land under the on-reservation provisions of the regulation.

DATES: Send comments before July 12, 1999.

ADDRESSES: If you wish to comment, you may submit your comments by any