

restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. On January 17, 2003, the Secretary of Agriculture signed a declaration of extraordinary emergency because of END in Nevada (*see* 68 FR 3507, Docket No. 03-001-2, published January 24, 2003).

On February 4, 2003, END was confirmed in backyard poultry on a premises in the Colorado River Indian Nation in Arizona. Therefore, in a fourth interim rule effective February 10, 2003, and published in the **Federal Register** on February 14, 2003 (68 FR 7412-7413, Docket No. 02-117-4), we amended § 82.3(c) by quarantining La Paz and Yuma Counties, AZ, and a portion of Mohave County, AZ, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. On February 7, 2003, the Secretary of Agriculture signed a declaration of extraordinary emergency because of END in Arizona (*see* 68 FR 7338, Docket No. 03-001-3, published February 13, 2003).

On April 9, 2003, END was confirmed in backyard poultry on a premises in El Paso County, TX. Therefore, in a fifth interim rule effective April 10, 2003, and published in the **Federal Register** on April 16, 2003 (68 FR 18531-18532, Docket No. 02-117-5), we amended § 82.3(c) by quarantining El Paso and Hudspeth Counties, TX, and Dona Ana, Luna, and Otero Counties, NM, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. On April 10, 2003, the Secretary of Agriculture signed a declaration of extraordinary emergency because of END in New Mexico and Texas (*see* 68 FR 18593, Docket No. 03-001-4, published April 16, 2003).

On May 5, 2003, END was confirmed in backyard poultry on a premises in Kern County, CA. Therefore, in this interim rule, we are amending § 82.3(c) by designating a portion of Kern County, CA, as a quarantined area and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. As provided for by the regulations in § 82.3(a), this quarantined area encompasses the area where poultry infected with END were located and a surrounding geographical area deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of END. 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 that 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.

This rule amends the regulations by quarantining a portion of Kern County, CA, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area. This action is necessary on an emergency basis to prevent the spread of END from the quarantined area.

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 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 in conflict 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 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 82.3, paragraph (c) is amended by adding, in alphabetical order, under the heading "California", an entry for Kern County to read as follows:

§ 82.3 Quarantined areas.

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(c) * * *

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California

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Kern County: That portion of the county that lies south of a line drawn as follows: Beginning on the Kern/Los Angeles County line at latitude 34.8200, longitude -118.7600 (a point approximately 8 miles east of the point where Interstate Highway 5 intersects the Kern/Los Angeles County line); then northeast from that point along an imaginary line to the intersection of Oak Creek Road and Tehachapi Willow Springs Road; then northeast from the intersection of Oak Creek Road and Tehachapi Willow Springs Road along an imaginary line to the intersection of Phillips Road and State Highway 14; then northeast on State Highway 14 to Red Rock Randsburg Road; then northeast on Red Rock Randsburg Road to Garlock Road; then north and east on Garlock Road to U.S. Highway 395; then north on U.S. Highway 395 to Searles Station Cutoff Road; then northeast on Searles Station Cutoff Road to the Kern/San Bernardino County line.

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