

TABLE 1.—AT-RISK NONCOMMERCIAL PREMISES SAMPLED BY COUNTY IN CALIFORNIA—Continued

| County | Number of premises sampled |
|----------------------|----------------------------|
| Los Angeles | 2,027 |
| Riverside | 1,229 |
| San Bernardino | 1,142 |
| Ventura | 90 |

Commercial premises. Active weekly surveillance of commercial poultry premises in the infected area began as early as December 2002. All but five commercial premises with birds have been under weekly active surveillance for at least 6 weeks and have a documented biosecurity protocol in place. Of the remaining five commercial premises, one (a premises with quail) has been under weekly active surveillance for at least 4 weeks and four (two with ostriches, one with ducks, and one hatchery) are under passive surveillance. All these commercial premises must report any significant increase in death losses or the occurrences of clinical signs consistent with END.

A total of 93 commercial poultry premises are located in the infected area, of which 72 premises had birds present. The 21 other commercial premises are egg processors and did not participate in active surveillance. Fourteen of the 72 premises that had birds present were found to be infected, and 1 premises was found to have been exposed to infected premises; all 15 were depopulated, and 6 other premises were emptied of birds by their owners for other reasons. With 5 of the 15 depopulated premises having been repopulated, there were 56 premises with birds in the infected area. A representative sampling of either live or dead birds from each poultry house on 52 of those 56 premises with birds was performed weekly. The other four commercial premises with birds were under passive surveillance. Sample collection was done by either an accredited veterinarian or authorized company personnel. No END positive premises were found.

We have determined that all applicable requirements of § 82.14 to remove an area from quarantine have been met with respect to the remaining areas in California. Specifically, we have determined the following:

- All birds and poultry exposed to END have been found to be free of END or have been euthanized;
- All birds and poultry infected with END have been euthanized;

- All parts of all birds and poultry that were euthanized or that died from any cause other than slaughter, all eggs produced by birds or poultry infected with or exposed to END, and all manure generated by and litter used by birds or poultry infected with or exposed to END have been buried at least 6 feet deep and covered at the time of burial with soil in a location within the quarantined area that meets all U.S. Environmental Protection Agency (EPA), State, and local requirements for landfills;

- All vehicles with which the birds or poultry infected with or exposed to END or their excrement or litter have had physical contact have been cleaned and disinfected in the manner prescribed in § 82.14(f);

- All cages, coops, containers, troughs, and other equipment used for birds or poultry infected with or exposed to END or their excrement or litter have been reduced to ashes by incineration or have been cleaned and disinfected in the manner prescribed in § 82.14(g); and

- The premises where birds or poultry infected with or exposed to END were located have been cleaned and disinfected in the manner prescribed in § 82.14(h).

Conclusion

Based on the information presented above, we are amending § 82.3(c) in this interim rule by removing the remaining portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, from the list of quarantined areas because the continued quarantine of these areas is no longer necessary to contain all birds and poultry infected with or exposed to END. With this action, there are no longer any areas in the United States that are quarantined because of END.

Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. We have determined that portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, may now be removed from the list of areas quarantined because of END. Therefore, immediate action is warranted to relieve the prohibitions or restrictions that have applied to the movement of birds, poultry, products, and other materials from those areas. 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 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 removing portions of Kern, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, from the list of quarantined areas. This action needs to be made effective immediately in order to remove restrictions on the movement of birds, poultry, and certain other articles from those areas that are no longer necessary.

This 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 interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).