

Rules and Regulations

Federal Register

Vol. 64, No. 104

Tuesday, June 1, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98-088-3]

Asian Longhorned Beetle; Addition to Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Asian longhorned beetle regulations by adding three areas in and around Chicago, IL, to the list of quarantined areas and restricting the interstate movement of regulated articles from the quarantined areas. The interim rule was necessary on an emergency basis to prevent the spread of the Asian longhorned beetle to noninfested areas of the United States.

EFFECTIVE DATE: The interim rule was effective on November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5255; or e-mail: ron.p.milberg@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective November 6, 1998, and published in the **Federal Register** on November 13, 1998 (63 FR 63385-63388, Docket No. 98-088-1), we amended the Asian longhorned beetle (ALB) regulations in 7 CFR part 301 by adding three areas in and around Chicago, IL, to the list of quarantined areas in § 301.51-3(c) and restricting the interstate movement of regulated articles from the quarantined areas.

We solicited comments concerning the interim rule for 60 days ending January 12, 1999. We received three comments by that date. They were from a State government and environmental associations.

All of the commenters were in favor of the interim rule. However, two of the commenters suggested that the Animal and Plant Health Inspection Service (APHIS) add woodchips to the list of regulated articles for ALB because woodchips may be associated with plant pests. The commenters noted that the regulations in 7 CFR 319.40-5 regarding solid wood packing material (SWPM) from China provide for the destruction of SWPM under certain circumstances, and that the means used to destroy the SWPM must be incineration or chipping followed by incineration. The commenters said that the requirement of incineration after chipping indicates that wood chips are potential vectors of some life stages of ALB.

A science panel formed by APHIS following the discovery of ALB in the United States concluded that wood chips are not a vector of ALB, and that no life stage of ALB will survive chipping. The regulations in 7 CFR 319.40-5 were put in place not just because SWPM from China poses a risk of transporting ALB, but also because it poses a risk of transporting extremely destructive wood-boring insects of the genera *Anoplophora*, *Ceresium*, *Hesperophanes*, and *Monochamus*. It is because of these other wood-boring insects that we require incineration after chipping for SWPM from China. Based on those considerations, we do not believe it is necessary to add woodchips to the list of regulated articles for ALB. However, we will continue to inspect woodchips, and if we find that they do pose a threat of spreading ALB, we will add woodchips to the list of regulated articles for ALB.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12372, 12866, and 12988 and the Paperwork Reduction Act.

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

Regulatory Flexibility Act

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic impact of the interim rule on small entities.

This document adopts as a final rule, without change, an interim rule that amended the ALB regulations by quarantining three areas in and around Chicago, IL, and restricting the interstate movement of regulated articles from the quarantined areas. In the interim rule, we stated that we were taking those actions on an emergency basis to prevent the spread of ALB to noninfested areas of the United States.

In the interim rule, we asked for comments on the potential economic effects of the interim rule. We were interested in determining the number and kind of small entities that would incur benefits or costs from the implementation of the interim rule. We did not receive any comments that addressed the effect the rule will have on small entities.

Within the newly quarantined areas for ALB, nurseries, arborists, tree removal services, and firewood dealers could be affected by the interim rule. They could be affected in two ways. First, if a business wishes to move regulated articles interstate from a quarantined area, that business must either: (1) Enter into a compliance agreement with APHIS for the inspection and certification or limited permitting of regulated articles for interstate movement from the quarantined area; or (2) present its regulated articles to an APHIS inspector for inspection and obtain a certificate or a limited permit, issued by the APHIS inspector, for the interstate movement of the regulated articles. In either case, the inspections of regulated articles may be inconvenient, but these inspections do not result in any additional direct costs for businesses because APHIS provides the services of the inspector without cost, as long as those services are administered during normal working hours. There is also no cost for the compliance agreement, certificate, or limited permit for interstate movement of regulated articles.

Second, because of ALB infestation, some regulated articles may not qualify for interstate movement under a certificate or limited permit. In this case, a business wishing to move such

regulated articles interstate from a quarantined area would be deprived of the opportunity to benefit from the sale of the affected regulated articles in another State. However, we do not have data to estimate either the potential loss of income or the economic effect of any potential loss of income on small businesses.

ALB has the potential to cause extensive tree damage and serious economic losses to many businesses, both large and small, in the United States. In the eastern region of the United States alone, which includes the north-central States, there are 279 million acres of hardwood forests, representing about 75 percent of the land of all eastern forests. That forest acreage is in addition to land in urban and suburban areas where hardwood trees are common in streets, backyards, and parks. It is estimated that maple trees account for at least 30 percent of the street and park plantings in urban areas. Nursery stock and certain fruit trees are also at risk.

Industries that would be negatively affected by the spread of ALB are important economically. The forest products industry provided employment to 1.6 million U.S. workers in 1986, the last year for which complete data is available. That number represents 9 percent of the employment in all industries that year. For the United States as a whole, timber was the most important agricultural crop in 1986 in terms of the dollar value of production. In 1986, roundwood timber products, at local points of delivery, were valued at \$12.6 billion, ahead of corn, which was valued at \$12.4 billion. In the north-central United States, timber was the fourth most important agricultural crop in 1986, behind only corn, soybeans, and hay. The value of roundwood timber products harvested in the north-central United States accounted for 8 percent of the employment, 6 percent of the wages and salaries, and 7 percent of the value of shipments of all industries in that area in 1986. This translates to a workforce of 382,000 employees earning \$8.6 billion. Industry shipments were valued at \$44.8 billion in 1986. In all, forest industry manufacturing in the north-central United States contributed \$53.4 billion to the gross national product in 1986. (These statistics on the forest products industry reflect products made from softwood timber as well as hardwood timber. However, the effect of hardwood timber on the totals is significant. As an example, hardwood accounted for 80 percent of the net volume of growing stock on timberland in eight north-central States in 1992.)

Nonmanufacturing industries that rely on healthy hardwood trees are also important economically. In 1994, the annual average employment and wages at firms in the north-central States engaged primarily in the production of ornamental nursery products, including nursery stock, totaled 18,429 and \$303 million, respectively. In 1993, sales of plants (trees and shrubs) by nurseries and greenhouses in the United States totaled an estimated \$3.1 billion, of which \$525 million was derived from sales in eight north-central States. During the year ending September 30, 1993, 103.9 million landscape trees were sold in the United States, including 26 million in 8 north-central States. Approximately half of all landscape trees sold in the United States are hardwood trees.

The maple syrup industry relies on healthy maple trees, especially the sugar maple, for its production. In 1995, three north-central States (Michigan, Ohio, and Wisconsin) accounted for about 20 percent of the value of the U.S. maple syrup production (\$25.5 million).

The tourism industry is tied heavily to leaf color changes in the fall, and the maple tree is noted for producing some of the most vivid colors. Between mid-September and late October, for example, the hardwood forests of New England draw 1 million tourists and generate \$1 billion in revenue. It is estimated that up to one-fourth of the tourism revenue generated annually in New England is due to the fall foliage displays. Although to a lesser extent than in New England, the forests of the north-central States also generate tourism revenue as a result of leaf color changes in the fall.

The commercial fruit industry is also at risk of pest infestation, as pear, apple, plum, and citrus trees are susceptible to ALB infestation. It is estimated that, for the United States as a whole, the cost of replacing host fruit trees would amount to \$5.2 billion alone for pear, apple, and plum orchards and \$10.4 billion for citrus. The fruits of host trees would also be affected by a widespread infestation. The average 1995-1997 value of utilized production in the United States of the four fruits noted above was estimated at \$4.7 billion.

The alternative to the interim rule was to take no action. We rejected this alternative because the quarantine of the three areas in Illinois listed in the interim rule is necessary to prevent the spread of ALB.

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 rule that amended 7 CFR 301 and that was published at 63 FR 63385-63388 on November 13, 1998.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 25th day of May 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-13792 Filed 5-28-99; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 245

[INS No. 1881-97]

RIN 1115-AE96

Adjustment of Status; Continued Validity of Nonimmigrant Status, Unexpired Employment Authorization, and Travel Authorization for Certain Applicants Maintaining Nonimmigrant H or L Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rulemaking amends and clarifies Immigration and Naturalization Service regulations governing an H-1 and L-1 nonimmigrant's continued nonimmigrant status during the pendency of an application for adjustment of status. This action incorporates into the regulations existing Service policy statements regarding this issue. In addition, this rule eliminates the requirement for those adjustment applicants who maintain valid H-1 and L-1 nonimmigrant status, and their dependent family members, to obtain advance parole prior to traveling outside the United States. Finally, the Service is considering expanding the "dual intent" concept to cover long term nonimmigrants, in E, F, J, and M visa classifications, who are visiting this country as traders, investors, students, scholars, etc.

DATES: *Effective date:* This interim regulation is effective July 1, 1999.