

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

7 CFR Part 319

[Docket No. 01–132–1]

Gypsy Moth Host Material From Canada; Removal of Infested Areas in British Columbia, Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning gypsy moth host material from Canada by removing the areas in British Columbia from the list of gypsy moth infested areas. Surveys have shown that those areas in British Columbia have been free of gypsy moth for the past 2 years. This proposed action would remove restrictions on the importation of regulated articles from British Columbia that no longer appear necessary.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by August 13, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–132–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–132–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and “Docket No. 01–132–1” on the subject line.

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

FOR FURTHER INFORMATION CONTACT: Mr. Frederick A. Thomas, Export Operations Officer, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–8367.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The regulations in “Subpart—Gypsy Moth Host Material from Canada” (7 CFR 319.77–1 through 319.77–5, referred to below as the regulations) restrict the importation of certain gypsy moth host material (regulated articles) from Canada to prevent the spread of gypsy moth from Canada into noninfested areas of the United States. The regulations in § 319.77–2 identify the following as regulated articles: Trees without roots (e.g., Christmas trees), unless greenhouse-grown throughout the year; trees with roots, unless greenhouse-grown throughout the year; shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year; logs with bark attached; pulpwood with bark attached; outdoor household articles; and mobile homes and their associated equipment. Regulated articles must meet specific certification or destination requirements if they are intended to be moved into or through areas of the United States that are not infested with gypsy moth. Section 319.77–3 lists those areas of Canada known to be infested with gypsy moth. The descriptions of those infested areas, which are in British Columbia, New Brunswick, Nova Scotia, Ontario, and Quebec, were provided by the Canadian Food Inspection Agency (CFIA). Section 319.77–4 contains the conditions for the importation into the

United States of regulated articles from Canada.

It has been our policy, agreed upon by CFIA, that an area must be free from gypsy moth for a period of 2 consecutive years before it will be removed from the list of gypsy moth infested areas. This is consistent with our practice under the provisions of our domestic quarantine regulations on gypsy moth in 7 CFR 301.45 through 301.45–12. Those areas in British Columbia that have been listed in the regulations as gypsy moth infested areas have been surveyed and found free of gypsy moth for the past 2 years, and have thus met our standard for removal from the list of gypsy moth infested areas.

Therefore, we are proposing to amend the regulations by removing those areas in British Columbia from the list of gypsy moth infested areas in Canada. This proposed action would remove restrictions on the importation of regulated articles from British Columbia that no longer appear necessary.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

We are proposing to amend the regulations concerning gypsy moth host material from Canada by removing areas in British Columbia from the list of gypsy moth infested areas. Surveys have shown that those areas in British Columbia have been free of gypsy moth for the past 2 years. This proposed action would relieve the specific certification and destination requirements of the regulations for certain gypsy moth host material imported into the United States from British Columbia.

The articles that would be affected by this proposed rule are trees without roots (e.g., Christmas trees), unless greenhouse-grown throughout the year; trees with roots, unless greenhouse-grown throughout the year; shrubs with roots and persistent woody stems, unless greenhouse-grown throughout the year; logs with bark attached; pulpwood with bark attached; outdoor household articles; and mobile homes and their associated equipment. In 2000, the United States imported nearly \$282 million in live plants and trees, about \$64 million in Christmas trees and

foliage, and more than \$253 million in wood in the rough (i.e., logs with bark and pulpwood). Table 1 shows the total values of these imported products in 2000 and the percentage coming from Canada. Canada ranks first among the sources of U.S. imports of these products.

TABLE 1.—U.S. IMPORTS OF LIVE TREES, PLANTS, AND ROUGH WOOD IN 2000

Commodity group	Total value of imports (\$ million)	Percentage from Canada
0602	\$281.9	72
060491	64.2	71

TABLE 1.—U.S. IMPORTS OF LIVE TREES, PLANTS, AND ROUGH WOOD IN 2000—Continued

Commodity group	Total value of imports (\$ million)	Percentage from Canada
44010	4.0	85
4403	249.4	92

Note: The numbers identifying the commodities denote the harmonized system for classifying commodities in trade. These digits denote the general classes of live trees, plants, and rough wood traded. The first group, 0602, includes live roses, live fruit or nut trees, rhododendrons and azaleas, live orchid plants, chrysanthemums with soil

attached, poinsettias with soil attached, herbaceous perennials, and trees and shrubs with soil attached. The second category, 060491, includes fir, northern Douglas, and other evergreen Christmas trees (also included in this category is foliage). The third group, 44010, includes fuel wood in logs, billets, and twigs. The fourth group, 4403, is wood in the rough.

Source: World Trade Atlas, Global Trade Information Services: Calendar Year 2000.

Canada is the major source of all U.S. imports of the regulated articles covered by the regulations, and British Columbia supplies a large portion of those Canadian exports. Table 2 shows U.S. imports of regulated articles from British Columbia during period 1996–2000.

TABLE 2.—U.S. IMPORTS OF LIVE TREES, PLANTS, AND ROUGH WOOD FROM BRITISH COLUMBIA, 1996–2000

Commodity group	1996 (\$ million)	1997 (\$ million)	1998 (\$ million)	1999 (\$ million)	2000 (\$ million)
0602	\$14.2	\$18.3	\$23.2	\$31.9	\$42.4
060491	3.1	2.8	2.5	2.7	2.1
440110	1.1	1.2	1.4	1.5	1.7
4403	45.4	43.0	60.9	110.8	155.2

Source: Statistics Canada.

With the exception of outdoor household articles and mobile homes and their associated equipment, regulated articles originating in a Canadian infested area that are to be moved into or through U.S. noninfested areas must be accompanied by an officially endorsed Canadian phytosanitary certificate that includes an additional declaration confirming that the regulated articles have been inspected and found free of gypsy moth or that the regulated articles have been treated for gypsy moth in accordance with the Plant Protection and Quarantine Treatment Manual. Logs or pulpwood originating in a Canadian infested area may also be moved into or through U.S. noninfested areas if they are moved to a specified U.S. processing plant or mill under compliance agreement with the Animal and Plant Health Inspection Service for specified handling or processing that will mitigate the risk of gypsy moth. Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into or through U.S. noninfested areas may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

Under the regulations, logs or pulpwood with bark attached, trees, and shrubs originating in a Canadian noninfested area that are to be moved into or through a U.S. noninfested area

must be accompanied by a certification of origin stating that they were produced in an area of Canada where gypsy moth is not known to occur. (As defined in § 319.77–1, a certification of origin is a signed, accurate statement certifying the area in which a regulated article was produced or grown that may be provided directly on the shipping documents accompanying shipments of commercial wood products from Canada, or may be provided on a separate certificate.) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction.

Our proposed removal of areas in British Columbia from the list of Canadian infested areas would eliminate the costs associated with the phytosanitary certificates required by our Canadian gypsy moth regulations for most regulated articles moved from British Columbia into or through U.S. noninfested areas. Some regulated articles, i.e., trees with roots and shrubs with roots and persistent woody stems, would still require a Canadian phytosanitary certificate under our nursery stock regulations in 7 CFR 319.37–4. For most affected entities, therefore, the costs associated with phytosanitary certifications would be replaced with the costs associated with certifications of origin. The cost of a Canadian phytosanitary certificate is \$7 or \$17 (Canadian), depending on the

value of the shipment; the fee for an associated pre-export inspection ranges from \$15 to \$50 (Canadian) per lot, depending on the type of article presented for inspection. The costs associated with certifications of origin, which are prepared and signed by the exporter, are minimal, given that those certifications require little processing time and no inspection costs or administrative fees.

While we do not have information on the number and size of entities in British Columbia that might be affected by this proposed rule, the areas within British Columbia that we are proposing to remove from the list of gypsy moth infested areas represent a small portion of the province as a whole, so few entities are likely to be affected. Therefore, we expect this proposed rule would have little economic effect on affected entities, whether small or large.

In addition, Canada has been and is by far the largest source of U.S. imports of the regulated products, and British Columbia is a large source within Canada. This continued to be the case even after our regulations concerning gypsy moth host material from Canada were established in 1999. Therefore, the decrease in costs is not expected to have a significant effect on this pattern. Thus, the overall effect upon price and competitiveness is expected to be positive but relatively insignificant.

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

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.77–3 [Amended]

2. In § 319.77–3, paragraph (a) would be removed and paragraphs (b) through (e) would be redesignated as paragraphs (a) through (d), respectively.

Done in Washington, DC, this 11th day of June, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–15074 Filed 6–13–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

[Docket No. FV97–911–1 PR]

Limes Grown in Florida and Imported Limes; Withdrawal of a Proposed Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action withdraws a portion of a proposed rule published in the **Federal Register** on April 29, 1997 (62 FR 23185), which would have increased the minimum size requirement prescribed under the lime marketing order and the lime import regulations for the month of June. The order regulates the handling of limes grown in Florida and is administered locally by the Florida Lime Administrative Committee (Committee). The spread of citrus canker in South Florida has decreased production and regulations have been suspended under the marketing order through February 24, 2003. Under section 8e of the Agricultural Marketing Agreement Act of 1937, the lime import regulations also have been suspended through February 24, 2003. Thus, an increase in the size requirements for Florida and imported limes would not be appropriate at this time.

DATES: The proposed rule published on April 29, 1997 (62 FR 23185) is partially withdrawn as of June 15, 2002.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 126 and Marketing Order No. 911, both as amended (7 CFR part 911), regulate the handling of limes grown in Florida, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

This action withdraws a portion of a proposed rule published in the **Federal Register** on April 29, 1997, (62 FR 23185), which would have increased the minimum size requirement for limes and limes imported into the United

States (7 CFR 911.344 and 944.209). Specifically, the Committee recommended increasing the minimum size requirement from 1 $\frac{7}{8}$ inches to 2 inches in diameter for the month of June. Under section 8e of the Act, the same change had to be considered for imported limes. Since that proposal was issued, citrus canker has spread throughout South Florida. This outbreak has significantly reduced lime production and all regulations under the lime marketing order and the lime import regulation have been suspended through February 24, 2003 (67 FR 6837). The suspension is intended to reduce industry costs and help the industry recover from the effects of citrus canker. As a consequence, a size increase for June is not necessary at this time, and that portion of the April 1997 proposal is being withdrawn. The other portions of the proposed rule were finalized in a rule published in the **Federal Register** on August 26, 1997 (62 FR 45142).

Therefore, the portion of the proposed rule regarding a size increase for South Florida and imported limes during the month of June published in the **Federal Register** April 29, 1997, (62 FR 23185) is hereby withdrawn.

List of Subjects in 7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: June 10, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–15057 Filed 6–13–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV02–987–1 PR]

Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the California Date Administrative Committee (Committee) for the 2002–03 and subsequent crop years from \$0.25 to \$0.90 per hundredweight of dates handled. The Committee locally administers the marketing order that