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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 01–132–2]

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

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending 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 action removes restrictions on the importation of regulated articles from British Columbia that are no longer necessary.

EFFECTIVE DATE: September 23, 2002.

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 were provided by the Canadian Food Inspection Agency (CFIA). Prior to this rule, the areas were in British Columbia, New Brunswick, Nova Scotia, Ontario, and Quebec. 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, in a proposed rule published in the **Federal Register** on June 14, 2002 (67 FR 40874–40876, Docket 01–132–1), we proposed to remove the areas in British Columbia from the list of gypsy moth infested areas.

We solicited comments concerning our proposal for 60 days ending August 13, 2002. We did not receive any comments. Therefore, for the reasons given in the proposed rule, we are adopting the proposed rule as a final rule, without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the

provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is warranted to relieve restrictions on the importation of regulated articles from British Columbia that are no longer necessary, as surveys have shown that the areas in British Columbia affected by this rule have been free of gypsy moth for the past 2 years. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final 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 amending 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 action relieves 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 are affected by this final 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
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 the 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 removal of areas in British Columbia from the list of Canadian infested areas eliminates 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, will 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 will 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 final rule, the areas within British Columbia that we are removing 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 final rule will 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 will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent 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 final 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 are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues 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) is removed and paragraphs (b) through (e) are redesignated as (a) through (d), respectively.

Done in Washington, DC, this 17th day of September 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–24102 Filed 9–20–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02–021]

RIN 2115–AA97

Safety Zone; Crazy Horse Campground, Colorado River, Lake Havasu, AZ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Lake Havasu Region on the navigable waters of the Colorado River during the Skat Trak World Championships. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 7 a.m. (PST) on October 6, 2002 until to 6 p.m. (PST) on October 13, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP San Diego 02–021) and are available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, at (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Final approval and permitting of this event were not issued in time to engage in full notice and comment rulemaking. Publishing a NPRM and delaying the effective date would be contrary to the public interest since the event would occur before the rulemaking process was complete.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In addition to the reasons stated above, it would be contrary to the

public interest not to publish this rule because the event has been permitted and participants and the public require protection.

Background and Purpose

The International Jet Sports Boating Association is sponsoring the Skat Trak World Championships, which is held at the Crazy Horse Campgrounds, Lake Havasu City, AZ. This temporary safety zone is established during the Skat Trak World Championships, a marine event that includes participating vessels racing along an established and marked course on Lake Havasu, AZ. This temporary safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Skat Trak World Championships and is also necessary to protect other vessels and users of the waterway.

Discussion of Rule

The following area is a temporary safety zone: the area enclosed by a line beginning from a point on land at 32°28'18" N, 114°21'04" W, thence northerly to a point 34°28'06" N, 114°21'55" W, thence easterly to a point 34°28'05" N, 114°21'02" W, thence southerly along the shoreline to the point of origin. All coordinates are North American Datum 1983.

The Coast Guard is establishing one (1) safety zone that will be enforced everyday from 7 a.m. (PST) to 6 p.m. (PST) from October 6, 2002 to October 13, 2002. This safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Skat Trak World Championships and to protect other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because of its limited duration of eleven