

# Rules and Regulations

Federal Register

Vol. 69, No. 45

Monday, March 8, 2004

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. 04-002-1]

#### Asian Longhorned Beetle; Quarantined Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Asian longhorned beetle regulations by adding a portion of Cook County, IL, to the list of quarantined areas and restricting the interstate movement of regulated articles from those areas. This action is necessary to prevent the artificial spread of the Asian longhorned beetle to noninfested areas of the United States. We are also removing other portions of Cook County, IL, and portions of DuPage County, IL, from the list of quarantined areas and removing restrictions on the interstate movement of regulated articles from these areas. We have determined that the Asian longhorned beetle no longer presents a risk of spread from these parts of Cook and Dupage Counties, IL, and that the quarantine and restrictions are no longer necessary.

**DATES:** This interim rule was effective March 3, 2004. We will consider all comments that we receive on or before May 7, 2004.

**ADDRESSES:** You may submit comments by any of the following methods:

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04-002-1, 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. 04-002-1.

- E-mail: Address your comment to [regulations@aphis.usda.gov](mailto: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. 04-002-1" on the subject line.

- Agency Web Site: Go to <http://www.aphis.usda.gov/ppd/rad/cominst.html> for a form you can use to submit an e-mail comment through the APHIS Web site.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

**Reading Room:** 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.

**Other Information:** You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Director of Emergency Programs, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-4387.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Asian longhorned beetle (ALB) (*Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. It attacks many healthy hardwood trees, including maple, horse chestnut, birch, poplar, willow, and elm. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and wood debris of half an inch or more in diameter are subject to infestation. The beetle bores into the heartwood of a host tree, eventually killing the tree. Immature beetles bore

into tree trunks and branches, causing heavy sap flow from wounds and sawdust accumulation at tree bases. They feed on, and over-winter in, the interiors of trees. Adult beetles emerge in the spring and summer months from round holes approximately three-eighths of an inch in diameter (about the size of a dime) that they bore through branches and trunks of trees. After emerging, adult beetles feed for 2 to 3 days and then mate. Adult females then lay eggs in oviposition sites that they make on the branches of trees. A new generation of ALB is produced each year. If this pest moves into the hardwood forests of the United States, the nursery, maple syrup, and forest product industries could experience severe economic losses. In addition, urban and forest ALB infestations will result in environmental damage, aesthetic deterioration, and a reduction in public enjoyment of recreational spaces.

#### Addition to Quarantined Area

The ALB regulations in 7 CFR 301.51-1 through 301.51-9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States. Portions of the State of Illinois, a portion of Hudson County in the State of New Jersey, and portions of New York City and Nassau and Suffolk Counties in the State of New York are already designated as quarantined areas.

Recent surveys conducted in Illinois by inspectors of State, county, and city agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of ALB has occurred outside the existing quarantined area in Chicago, IL. Officials of the U.S. Department of Agriculture and officials of State, county, and city agencies in Illinois are conducting intensive survey and eradication programs in the infested area, and the State of Illinois has quarantined the infested area and is restricting the intrastate movement of regulated articles from the quarantined area to prevent the further spread of ALB within that State. However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the quarantined area to

prevent the spread of ALB to other States and other countries.

The regulations in § 301.51-3(a) provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, where ALB has been found by an inspector, where the Administrator has reason to believe that ALB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine purposes from localities where ALB has been found.

Less than an entire State will be quarantined only if (1) the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of ALB.

In accordance with these criteria and the recent ALB findings described above, we are amending the list of quarantined areas in § 301.51-3(c) to include an additional area in Chicago, IL. The quarantined area is described in the rule portion of this document.

#### Removal of Quarantined Areas

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 regulations by designating three areas in and around Chicago, IL, as quarantined areas, including areas near Addison in DuPage County, IL, and portions of the Village of Summit, IL.

Based on surveys conducted by inspectors of Illinois State and county agencies and by APHIS inspectors, we are removing from quarantine those areas in DuPage County and the Village of Summit. The last findings of ALB in these quarantined areas were December 2, 2000, and August 18, 1999, respectively.

Since then, no evidence of ALB infestation has been found in these areas. Based on our experience, we have determined that sufficient time has passed without finding additional beetles or other evidence of infestation to conclude that ALB constitutes a negligible risk to those areas in DuPage County and the Village of Summit. Therefore, we are removing the entries for these areas from the list of quarantined areas in § 301.51-3(c).

#### Immediate Action

This rulemaking is necessary on an immediate basis to help prevent the artificial spread of ALB to noninfested

areas of the United States. This rule will also relieve restrictions on certain areas that are no longer warranted. 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 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 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 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.

#### National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this interim rule. The assessment provides a basis for the conclusion that the integrated eradication program will not have a significant impact on the quality of the

human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment and finding of no significant impact may be viewed on the Internet at <http://www.aphis.usda.gov/ppd/es/alb.html>. Copies of the environmental assessment and finding of no significant impact are also available for public inspection in our reading room. (Information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this interim rule). In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for 7 CFR part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701-7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under Sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under Sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. In § 301.51-3, paragraph (c), under the heading Illinois, the entry titled "Cook County" is revised to read as set forth below and the entries titled "DuPage County" and "Village of Summit" are removed.

**§ 301.51-3 Quarantined areas.**

\* \* \* \* \*

(c) \* \* \*

**Illinois**

*Cook County.* That area in the Ravenswood community in the City of Chicago that is bounded as follows: Beginning on the shoreline of Lake Michigan at Howard Street; then west on Howard Street to Western Avenue; then south on Western Avenue to Bryn Mawr Avenue; then west on Bryn Mawr Avenue to Central Park Avenue; then south on Central Park Avenue to Diversey Avenue; then east on Diversey Avenue to Diversey Parkway; then east on Diversey Parkway to Damen Avenue; then south on Damen Avenue to Chicago Avenue; then east on Chicago Avenue to the shoreline of Lake Michigan; then north along the shoreline of Lake Michigan to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 3rd day of March, 2004.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 04-5128 Filed 3-5-04; 8:45 am]

BILLING CODE 3410-34-P

**FEDERAL RESERVE SYSTEM****12 CFR Part 220**

[Regulation T]

**Credit by Brokers and Dealers; List of Foreign Margin Stocks**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The List of Foreign Margin Stocks (List) is composed of certain foreign equity securities that qualify as margin securities under Regulation T. The Foreign List has been published twice a year by the Board since 1999. The Board is removing all 51 stocks from the current List because they have not been recertified as required under procedures approved by the Board in 1990. The Board will publish a new List if eligible securities are identified pursuant to these listing procedures.

**EFFECTIVE DATE:** April 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Peggy Wolffrum, Financial Analyst, Division of Banking Supervision and Regulation, (202) 452-2837, or Scott Holz, Senior Counsel, Legal Division, (202) 452-2966, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Stocks that appear on the List are by definition

*foreign margin stocks* under Regulation T, making them also *margin securities* and therefore eligible for credit at brokers and dealers on the same basis as domestic margin securities. The List was last published on September 4, 2003 (68 FR 8993), and became effective September 15, 2003.

The List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the financial requirements of § 220.11(c) and (d). In determining the qualification of particular foreign equity securities, the Board has relied on a list of proposed foreign margin stocks submitted by the New York Stock Exchange (NYSE) based on certification of the securities' eligibility by at least two NYSE members under procedures adopted by the NYSE and approved by the Board in 1990. These procedures include periodic recertification of the stocks on the List by at least two NYSE member firms.

Foreign securities may also qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a "ready market" under SEC Rule 15c3-1 (17 CFR 240.15c3-1) or a "no-action" position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

The New York Stock Exchange has informed the Board that the member firms who usually recertify the stocks on the list have declined to do so, and plan to rely on the "ready market" test instead. The Board is therefore removing the 51 stocks on the current List because it is no longer able to determine that the securities substantially meet the provisions of section 220.11(d) of Regulation T, which is necessary for the securities' continued inclusion on the List.

The Board will publish a List in the future if it receives the required information under the approved procedures to establish the qualification of specific foreign equity securities pursuant to section 220.11(c) of Regulation T, which is necessary for initial inclusion on the List.

**Public Comment**

The Board finds that the requirements of 5 U.S.C. 553 with respect to notice and public participation are unnecessary. No additional useful information would be gained by public participation, given the objective character of the criteria for continued inclusion on the Foreign List specified in § 220.11(d) of Regulation T.

**List of Subjects in 12 CFR Part 220**

Brokers, Credit, Margin, Margin requirements, Investments, Reporting

and recordkeeping requirements, Securities.

■ Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, the Board is removing the following stocks from the Foreign List:

Akita Bank, Ltd., ¥1,135 par common  
 Aomori Bank, Ltd., ¥1,135 par common  
 Asatsu-DK Inc., ¥1,135 par common  
 Bank of Nagoya, Ltd., ¥1,135 par common  
 Chudenko Corp., ¥1,135 par common  
 Chugoku Bank, Ltd., ¥1,135 par common  
 Daihatsu Motor Co., Ltd., ¥1,135 par common  
 Dainippon Screen MFG. Co., Ltd., ¥1,135 par common  
 Denki Kagaku Kogyo, ¥1,135 par common  
 Eighteenth Bank, Ltd., ¥1,135 par common  
 Futaba Corp., ¥1,135 par common  
 Futaba Industrial Co., Ltd., ¥1,135 par common  
 Higo Bank, Ltd., ¥1,135 par common  
 Hitachi Software Engineering Co., Ltd., ¥1,135 par common  
 Hokkoku Bank, Ltd., ¥1,135 par common  
 Hokuetsu Paper Mills, Ltd., ¥1,135 par common  
 Iyo Bank, Ltd., ¥1,135 par common  
 Japan Airport Terminal Co., Ltd., ¥1,135 par common  
 Juroku Bank, Ltd., ¥1,135 par common  
 Kagoshima Bank, Ltd., ¥1,135 par common  
 Kamigumi Co., Ltd., ¥1,135 par common  
 Katokichi Co., Ltd., ¥1,135 par common  
 Keisei Electric Railway Co., Ltd., ¥1,135 par common  
 Keiyo Bank, Ltd., ¥1,135 par common  
 Komori Corp., ¥1,135 par common  
 Konami Co., Ltd., ¥1,135 par common  
 Michinoku Bank, Ltd., ¥1,135 par common  
 Musashino Bank, Ltd., ¥1,135 par common  
 Namco, Ltd., ¥1,135 par common  
 Nichicon Corp., ¥1,135 par common  
 Nihon Unisys, Ltd., ¥1,135 par common  
 Nishi-Nippon Bank, Ltd., ¥1,135 par common  
 Nishi-Nippon Railroad Co., Ltd., ¥1,135 par common  
 Nissan Chemical Industries, Ltd., ¥1,135 par common  
 Ogaki Kyoritsu Bank, Ltd., ¥1,135 par common  
 Q.P. Corp., ¥1,135 par common  
 Rinnai Corp., ¥1,135 par common  
 Sagami Railway Co., Ltd., ¥1,135 par common  
 Sakata Seed Corp., ¥1,135 par common  
 Santen Pharmaceutical Co., Ltd., ¥1,135 par common  
 Shimadzu Corp., ¥1,135 par common  
 Shimamura Co., Ltd., ¥1,135 par common