

the Act, was \$2.45 per bale. An increase of 2.82 percent, or 7 cents per bale, due to the implicit price deflator of the gross domestic product added to the \$2.45 would result in a 2007 base fee of \$2.52 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2007 crop is estimated at 19,900,000 bales. The 2007 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum decreased adjustment of 15 percent). This percentage factor amounts to a 38 cents per bale reduction and was subtracted from the 2007 base fee of \$2.52 per bale, resulting in a fee of \$2.14 per bale.

However, with a fee of \$2.14 per bale, the projected operating reserve would be 37.2 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of \$2.14 must be reduced by 29 cents per bale, to \$1.85 per bale, to provide an ending accumulated operating reserve for the fiscal year of not more than 25 percent of the projected cost of operating the program. This would establish the 2007 season fee at \$1.85 per bale.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the HVI classification fee at \$1.85 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 would remain at 5 cents per bale. The fee in § 28.910(b) for an owner receiving classification data from the National database would remain at 5 cents per bale, and the minimum charge of \$5.00 for services provided per monthly billing period would remain

the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of \$5.00 per sheet.

The fee for review classification in § 28.911 would be maintained at \$1.85 per bale. The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

Pursuant to 5 U.S.C. 553, good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule maintains user fees for 2007 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2006 and a 15-day comment period was provided for public comment and one favorable comment was received.

#### List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

■ For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

#### PART 28—[AMENDED]

■ 1. The authority citation for 7 CFR part 28, subpart D, continues to read as follows:

**Authority:** 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

#### § 28.909 Costs.

\* \* \* \* \*

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.85 per bale.

\* \* \* \* \*

■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

#### § 28.911 Review classification.

(a) \* \* \* The fee for review classification is \$1.85 per bale.

\* \* \* \* \*

Dated: May 30, 2007.

**Kenneth C. Clayton,**  
*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E7–10675 Filed 5–31–07; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2007–0028]

#### **Emerald Ash Borer; Quarantined Areas; Maryland**

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

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

**SUMMARY:** We are amending the emerald ash borer regulations by adding Prince George's County, MD, to the list of areas quarantined because of emerald ash borer. As a result of this action, the interstate movement of regulated articles from that county is restricted. This action is necessary to prevent the artificial spread of the emerald ash borer from Prince George's County, MD, into noninfested areas of the United States.

**DATES:** This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS–2007–0028 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to APHIS–2007–0028, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to APHIS–2007–0028.

*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:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-4387.

**SUPPLEMENTARY INFORMATION:**

**Background**

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

*Quarantined Areas*

The EAB regulations in 7 CFR 301.53-1 through 301.53-9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of EAB to noninfested areas of the United States. The States of Illinois, Indiana, and Ohio and portions of the State of Michigan have already been designated as quarantined areas.

On August 22, 2006, two EAB larvae were recovered during an ongoing survey in Prince George's County, MD. Since then, EAB larvae have been recovered in three additional neighborhoods in Prince George's County. Officials of the U.S. Department of Agriculture (USDA) and officials of State and county agencies in Maryland are conducting intensive survey and eradication programs in the infested areas. The State of Maryland has quarantined Prince George's County to prevent the spread of EAB to noninfested areas in that State.

However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the quarantined areas to prevent the spread of EAB from Maryland to other States.

The regulations in § 301.53-3(a) provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, where EAB has been found by an inspector, where the Administrator has reason to believe that EAB is present, or where the

Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where EAB has been found.

Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made if the Administrator determines that: (1) 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 the EAB.

In accordance with these criteria and the recent EAB findings described above, we are amending § 301.53-3(c) to add Prince George's County, MD, to the list of quarantined areas.

**Emergency Action**

This rulemaking is necessary on an emergency basis to help prevent the spread of EAB to noninfested areas of the United States. 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.

We are amending the EAB regulations by adding Prince George's County, MD, to the list of quarantined areas. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of this plant pest into noninfested areas of the United States.

Ash trees are a valuable resource for the nursery, landscaping, and timber industries in Maryland. The Maryland Department of Natural Resources estimates that about 20 percent of

streamside trees in the State are ash trees. Ash trees account for over 3 percent of trees in naturally wooded areas. Ash wood is used for all traditional applications of hardwood from flooring and cabinets to baseball bats. The USDA has estimated that losses could reach almost \$300 million in the Baltimore metropolitan area alone if EAB becomes established in the nearby county of Baltimore and the surrounding counties. It is estimated that the eradication efforts in the county of Prince Georges will cost more than \$4 million in Federal funding.<sup>1</sup>

This interim rule will affect business entities located within Prince George's County, MD. According to the U.S. Agricultural Census, in 2002 there were 22 nurseries in this county.<sup>2</sup> The exact number and size of any other affected entity or operation that will be subject to movement restriction in the quarantined area is unknown. However, only restricted articles moved out of the quarantine area will be affected.

It is reasonable to assume that most of the nurseries are small in size according to the U.S. Small Business Administration's standards. The small business size standard based upon the North American Industry Classification System (NAICS) code 111421 (nursery and tree production) is \$750,000 or less in annual receipts. The small business size standard based upon NAICS code 113210 (forest nursery and gathering of forest products, including nursery operations that sell deciduous shade trees) is \$5 million or less in annual receipts.<sup>3</sup> The small business size standard based upon NAICS code 113310 (logging operations) is 500 or fewer persons employed by the operation.

Under the regulations, regulated articles may be moved interstate from a quarantined area into or through an area that is not quarantined only if they are accompanied by a certificate or limited permit. An inspector or a person operating under a compliance agreement will issue a certificate for interstate movement of a regulated article if certain conditions are met, including that the regulated article is determined to be apparently free of EAB.

Businesses could be affected by the regulations in two ways. First, if a business wishes to move regulated articles interstate from a quarantined area, that business must either: (1) Enter

<sup>1</sup> See <http://www.naturalresources.umd.edu/ashborer.cfm>.

<sup>2</sup> 2002 U.S. Agricultural Census, State and County Data, Maryland, table 34, page 298.

<sup>3</sup> "Nursery Crops: 2003 Summary" National Agricultural Statistics Service, USDA, July 2004.

into a compliance agreement with APHIS for the inspection and certification of regulated articles to be moved interstate from the quarantined area; or (2) present its regulated articles for inspection by an inspector and obtain a certificate or a limited permit, issued by the inspector, for the interstate movement of regulated articles. The inspections may be inconvenient, but they should not be costly in most cases, even for businesses operating under a compliance agreement that would perform the inspections themselves. For those businesses that elect not to enter into a compliance agreement, APHIS would provide the services of the inspector without cost during normal business hours. There is also no cost for the compliance agreement, certificate, or limited permit for the interstate movement of regulated articles.

Second, there is a possibility that, upon inspection, a regulated article could be determined by the inspector to be potentially infested with EAB, and, as a result, the article would be ineligible for interstate movement under a certificate. In such a case, the entity's ability to move regulated articles interstate would be restricted. However, the affected entity could conceivably obtain a limited permit under the conditions of § 301.53-5(b).

Our experience with administering the EAB regulations and the regulations for other pests, such as the Asian longhorned beetle, that impose essentially the same conditions on the interstate movement of regulated articles lead us to believe that any economic effects on affected small entities will be small and are outweighed by the benefits associated with preventing the spread of EAB into noninfested areas of the United States.

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 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.

#### Paperwork Reduction Act

This interim 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 part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

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

■ 2. In § 301.53-3, paragraph (c) is amended by adding, in alphabetical order, an entry for Maryland to read as follows:

#### § 301.53-3 Quarantined areas.

\* \* \* \* \*  
(c) \* \* \*

Maryland

*Prince George's County.* The entire county.

\* \* \* \* \*

Done in Washington, DC, this 25th day of May 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7-10560 Filed 5-31-07; 8:45 am]

**BILLING CODE 3410-34-P**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. APHIS-2006-0129]

RIN 0579-AC32

#### Wood Packaging Material; Treatment Modification

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

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

**SUMMARY:** We are amending the regulations for the importation of unmanufactured wood articles to bring the methyl bromide treatment schedule into alignment with current international phytosanitary standards. This action is necessary because international phytosanitary standards have changed and the regulations need to be updated to reflect current standards.

**DATES:** This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS-2006-0129 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0129, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0129.

*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:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hesham Abuelnaga, Import Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 734-0627.

**SUPPLEMENTARY INFORMATION:**