

credit card account; the issuer and the cardholder are negotiating to restructure the credit card debt; the issuer garnishes the cardholder's wages; the cardholder disputes the terms and conditions of the account; or the cardholder becomes involved in any disagreement with the issuer that may cast doubt on the covered OTS employee's ability to remain impartial with respect to the savings association or its subsidiaries. Preliminary inquiries to the issuer regarding the accuracy of billing information or billed items are not, but may become, an adversarial dispute.

(ii) *Loans secured primarily by principal residence.* A covered OTS employee (or a spouse or minor child of a covered OTS employee) may obtain and hold a residential real property loan from an OTS-regulated savings association (or its subsidiary) subject to the following conditions:

(A) The loan must be secured primarily by residential real property that is the borrower's principal residence. The borrower may retain the loan if the residential real property ceases to be that borrower's principal residence. However, any subsequent renewal or renegotiation of the original terms of such a loan must meet the requirements of this paragraph (c)(3)(ii);

(B) The borrower may not apply for the loan while the covered OTS employee participates, or is scheduled to participate, in any examination, the review of any application, or any other supervisory or regulatory matter directly affecting the savings association or its subsidiaries;

(C) The borrower must satisfy all financial requirements for the loan that are generally applicable to all applicants for the same type of residential real property loan;

(D) The terms and conditions applicable with respect to the loan and any credit extended to the borrower under the loan are no more favorable generally to that borrower than the terms and conditions that are generally applicable to residential real property loans offered by the same savings association (or same subsidiary) to other borrowers in comparable circumstances for residential real property loans;

(E) The covered OTS employee must inform his or her OTS supervisor and the OTS ethics officer before the borrower applies for a residential real property loan under this paragraph (c)(3)(ii); and

(F) Immediately after the borrower enters into the loan agreement, the covered OTS employee must:

(1) Notify his or her supervisor and the OTS ethics officer of the loan agreement;

(2) Certify that the loan meets the requirements of this paragraph (c)(3)(ii); and

(3) Submit a written disqualification stating that the covered OTS employee will not participate in any examination, the review of any application, or any other supervisory or regulatory matter directly affecting the savings association or its subsidiaries.

(4) *Pre-existing loans.* (i) Other than a credit card account, which must comply with paragraph (c)(3)(i) of this section, a covered OTS employee (or spouse or minor child of a covered OTS employee) may retain a loan from an OTS-regulated savings association (or its subsidiary) on its original terms if:

(A) The loan was incurred before April 30, 1991 or the date that the individual became a covered OTS employee, whichever date is later; or

(B) The savings association (or its subsidiary) acquired the loan in a purchase or other transfer, or acquired the loan in a conversion or merger of the lender.

(ii) A covered OTS employee must notify the OTS ethics officer, in a timely manner, of any loan that meets the requirements of paragraph (c)(4)(i) of this section, and must submit a written disqualification stating that the covered OTS employee will not participate in any examination, the review of any application, or any other supervisory or regulatory matter directly affecting the savings association or its subsidiaries.

(iii) If a covered OTS employee (or his or her spouse or minor child) renews or renegotiates the original terms of a pre-existing loan described in this paragraph (c)(4), the renewed or renegotiated loan will become subject to paragraphs (c)(1) through (c)(3) of this section.

(5) *Loans from holding companies.* An OTS examiner must submit to OTS a written disqualification if the OTS examiner (or a spouse or minor child of an OTS examiner) obtains or holds a loan from a savings and loan holding company or its subsidiary (other than a subsidiary that is an OTS-regulated savings association or its subsidiary, loans from which are covered by paragraph (c)(3) of this section). The written disqualification must state that the examiner will not participate in any examination, the review of any application, or any other supervisory or regulatory matter directly affecting that lender. A disqualification is not required for a loan that would have been permitted and would not have required a disqualification under this paragraph (c), if a savings association (or its subsidiary) had made the loan.

\* \* \* \* \*

Dated: July 9, 2007.

**Robert F. Hoyt,**  
General Counsel, Department of the Treasury.

Approved: August 14, 2007.

**Robert I. Cusick,**  
Director, Office of Government Ethics.  
[FR Doc. E7-16711 Filed 8-22-07; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS-2007-0005]

#### **Emerald Ash Borer; Additions 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 emerald ash borer regulations by designating the States of Illinois, Indiana, and Ohio, in their entirety, as quarantined areas. The interim rule was necessary to prevent the artificial spread of the emerald ash borer into noninfested areas of the United States. As a result of the interim rule, the interstate movement of regulated articles from those States is restricted.

**DATES:** Effective on August 23, 2007, we are adopting as a final rule the interim rule published at 72 FR 15597-15598 on April 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah McPartlan, National Emerald Ash Borer Program Manager, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737-1236; (301) 734-5356.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive woodboring 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.

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 into noninfested areas of the United States. The regulations in § 301.53–3(a) provide that the Administrator of the Animal and Plant Health Inspection Service 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.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on April 2, 2007 (72 FR 15597–15598, Docket No. 2007–0005), we amended the regulations in § 301.53–3(c) by designating the States of Illinois, Indiana and Ohio, in their entirety, as quarantined areas. Comments on the interim rule were required to be received on or before June 1, 2007. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988, and the Paperwork Reduction Act. Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

### Regulatory Flexibility Act

This rule affirms an interim rule that amended the EAB regulations by designating the States of Illinois, Indiana, and Ohio, in their entirety, as quarantined areas. The interim rule was necessary to prevent the artificial spread of the emerald ash borer into noninfested areas of the United States. As a result of the interim rule, the interstate movement of regulated articles from those States is restricted.

The following analysis addresses the economic effects of the interim rule on small entities, as required by the Regulatory Flexibility Act.

Based on data from the 2002 Census of Agriculture, there were 4,909 nurseries and 285 sawmills in Illinois, Indiana, and Ohio in that year. The interim rule will not have negatively affected entities in areas of the three States that were already under quarantine. Those entities may, in fact,

benefit by not having to have regulated articles certified prior to movement within the State, as had been the case when only a portion of each State was quarantined. We do not know the number of these entities. For the newly quarantined entities in the three States, the extent to which they will be affected by the interim rule will depend on the importance of ash species to their businesses and the share of ash species sales that are interstate.

In Indiana, the interim rule may affect as many as 1,123 nurseries, 114 sawmills, and an unknown number of firewood dealers, ash lumber producers, and woodlot owners, based on 2002 data. In Ohio, there are at least 2,678 nurseries and 121 sawmills that may be affected by the EAB quarantine. There are also at least 60 ash lumber operations, 18 firewood dealers, and an unknown number of woodlot owners and landscapers.<sup>2</sup> In Illinois, the interim rule may affect at least 1,108 nursery operations and 50 sawmills. However, the rule only affects the proportion of nursery stock in these operations that is deciduous shade trees of an ash species.

The U.S. Census of Agriculture does not report sale receipts nor the number of employees by entity. It is reasonable to assume that most 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) is \$6 million or less in annual receipts. The small business size standard based upon NAICS codes 113310 (logging operations) and 321113 (sawmills) is 500 or fewer persons employed by the operation.<sup>3</sup> It is estimated that more than 90 percent of nursery operations located in these States are small operations with annual receipts of less than \$750,000 (including nursery operations that sell deciduous shade trees).<sup>4</sup> It is reasonable to assume that nearly all sawmills and logging operations have 500 or fewer employees, since more than 80 percent of the sawmills located in these States have fewer than 20 employees and each State has an average of 14–15 employees

per operation.<sup>5</sup> The percentage of annual revenue attributable to ash species alone for affected entities is unknown.

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 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 leads us to believe that any economic effects on affected small

<sup>2</sup> Tom Harrison, Ohio Department of Agriculture, personal communication.

<sup>3</sup> Based upon 2002 Census of Agriculture—State Data and the “Small Business Size Standards by NAICS Industry.” Code of Federal Regulations, Title 13, Chapter 1.

<sup>4</sup> “Nursery Crops: 2002 Summary.” National Agricultural Statistics Service, USDA July 2004.

<sup>5</sup> “2002 Economic Census: Manufacturing.” U.S. Census Bureau, July 2005 (Indiana, Illinois, and Ohio Geographical reports).

<sup>1</sup> To view the interim rule and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0005>.

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 impact on a substantial number of small entities.

#### 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 part 301 and that was published at 72 FR 15597–15598 on April 2, 2007.

Done in Washington, DC, this 15th day of August 2007.

Kevin Shea,

*Acting Administrator, Animal and Plant Health Inspection Service*

[FR Doc. E7–16695 Filed 8–22–07; 8:45 am]

BILLING CODE 3410–34–P

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

#### RIN 0563–AC12

### Common Crop Insurance Regulations; Millet Crop Insurance Provisions

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations; Millet Crop Insurance Provisions to remove the reduction in indemnity for any unharvested millet acreage to better meet the needs of insured producers.

**DATES:** *Effective Date:* September 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

#### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through November 30, 2007.

#### Government Paperwork Elimination Act (GPEA) Compliance

FCIC is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. FCIC requires that all reinsured companies be in compliance with the Freedom to E-File Act and section 508 of the Rehabilitation Act.

#### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Written agreement requirements for the Federal crop insurance program are the same for all producers regardless of the size of their operations. For instance, all producers requesting this type of written

agreement must submit production history for at least the most recent three crop years in which the crop was planted during the base period, if they produced the crop for three years. If any producer has not produced the crop for three years, he or she may submit evidence of production history for a similar crop, or for a combination of production history for the crop and a similar crop, provided a total of three years of production history is provided. Whether a producer has 10 acres or 100 acres there is no difference in the kind of information required for requesting a written agreement. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this change helps ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

#### Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

#### Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an