

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 00-004-1]

#### Asian Longhorned Beetle; Addition to 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 expanding the quarantined area in the city of Chicago, IL, and adding two new areas in Cook County, IL. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary on an emergency basis to prevent the artificial spread of the Asian longhorned beetle to noninfested areas of the United States.

**DATES:** This interim rule was effective January 27, 2000. We invite you to comment of this docket. We will consider all comments that we receive by April 3, 2000.

**ADDRESSES:** Please send your comment and three copies to: Docket No. 00-004-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-004-1.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5255.

#### 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 is known to attack healthy maple, horse chestnut, birch, Rose of Sharon, poplar, willow, elm, locust, mulberry, chinaberry, apple, cherry, pear, and citrus trees. It may also attack other species of hardwood trees. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and debris of a half an inch or more in diameter are subject to infestation. The beetle bores into the heartwood of a host tree, eventually killing it. 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 3/8-inch diameter (about the size of a dime) that they bore through the 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 and forest products industries could experience severe economic losses.

The Asian longhorned beetle regulations (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 New York City and Nassau and Suffolk Counties in the State of New York and

portions of the city of Chicago, DuPage County, and the Village of Summit in the State of Illinois are already designated as quarantined areas.

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

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, in which ALB has been found by an inspector, in which the Administrator has reason to believe that ALB is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where ALB has been found.

Less than an entire State will be designated as a quarantined area only if 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 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 § 301.51-3(c) by expanding the quarantined area in the city of Chicago and by quarantining two new portions of Cook County, IL. The expanded and new quarantined

areas are described in the rule portion of this document.

### Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the ALB from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. 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 as a result of the comments.

### Executive Order 12866 and Regulatory Flexibility Act

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our 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 program. The

assessment provides a basis for the conclusion that a Federal quarantine for ALB 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 are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**, by calling the Plant Protection and Quarantine fax service at (301) 734-3560 and requesting document number 0023, or by visiting the following Internet site: <http://www.aphis.usda.gov/ppd/ead/ppqdocs.html>.

### Paperwork Reduction Act

This interim 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 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. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.51-3, paragraph (c), the entry for the State of Illinois is amended as follows:

a. The entry for the City of Chicago is removed.

b. An entry for Cook County is added, in alphabetical order, to read as follows.

#### § 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 at the intersection of North Central Avenue and West Bryn Mawr Avenue; then east along West Bryn Mawr Avenue to North Western Avenue; then east along an imaginary line through Rosehill Cemetery to the continuation of West Bryn Mawr Avenue; then east along West Bryn Mawr Avenue to Lakeshore Drive; then east along an imaginary line to the shoreline of Lake Michigan; then south along the shoreline of Lake Michigan to West Diversey Parkway; then west along West Diversey Parkway to West Diversey Avenue; then west along West Diversey Avenue to North Central Avenue; then north along North Central Avenue, along the east edge of the Bohemian National Cemetery and across Northeast Illinois University campus, to the point of beginning.

That area in the Kilbourn Park community in the city of Chicago that is bounded as follows: Beginning at the intersection of West Roscoe Street and North Knox Avenue; then north along North Knox Avenue to West Addison Street; then north along an imaginary line to West Patterson Avenue; then west along West Patterson Avenue to North Lamont Avenue; then south along North Lamont Avenue to West Addison Street; then south along an imaginary line to West Roscoe Street; then east along West Roscoe Street to the point of beginning.

That area in the city of Park Ridge that is bounded as follows: Beginning at the intersection of Devon Avenue and South Dee Road; then south along South Dee Road until it turns into North East River Road; then south along North East River Road to the Kennedy Expressway; then west along the Kennedy Expressway to the shoreline of the Des Plaines River; then north along the shoreline of the Des Plaines River to Devon Avenue; then east along Devon Avenue to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 27th day of January 2000.

**Bobby R. Acord,**

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

[FR Doc. 00-2273 Filed 2-1-00; 8:45 am]

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