

Rules and Regulations

Federal Register

Vol. 65, No. 28

Thursday, February 10, 2000

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99-042-2]

Gypsy Moth Generally Infested 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 gypsy moth regulations by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list of generally infested areas. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the gypsy moth to noninfested States.

EFFECTIVE DATE: The interim rule became effective on July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Coanne E. O'Hern, Operations Officer, Invasive Species and Pest Management Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on July 27, 1999 (64 FR 40509-40511, Docket No. 99-042-1), we amended the gypsy moth regulations in 7 CFR part 301 by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list in § 301.45-3(a) of generally infested

areas. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the gypsy moth to noninfested States.

Comments on the interim rule were required to be received on or before September 27, 1999. 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 12372 and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

Regulatory Flexibility Act

This rule affirms an interim rule that amended the gypsy moth regulations by adding 4 counties in Indiana, 6 counties in Michigan, 11 counties in Ohio, 4 cities and 3 counties in Virginia, and 2 counties in Wisconsin to the list of generally infested areas. As a result of the interim rule, the interstate movement of regulated articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the gypsy moth to noninfested States.

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

This action affects the interstate movement of regulated articles and outdoor household articles (OHA's) from and through areas in Indiana, Michigan, Ohio, Virginia, and Wisconsin that are newly regulated for gypsy moth. There are several types of restrictions that apply to the newly regulated areas. These restrictions will have their primary effect on persons moving OHA's, nursery stock, Christmas trees, logs and wood chips, and mobile homes interstate from a generally infested area to any area that is not generally infested.

Under the regulations, OHA's may not be moved interstate from a generally infested area into or through a noninfested area unless they are accompanied by either a certificate issued by an inspector or an OHA document issued by the owner of the articles, attesting to the absence of all

life stages of the gypsy moth. Most individual homeowners moving their own articles who comply with the regulations choose to self-inspect and issue an OHA document. This takes a few minutes and involves no monetary cost. Individuals may also have State-certified pesticide applicators, trained by the State or U.S. Department of Agriculture (USDA), inspect and issue certificates.

Generally, regulated articles (such as logs, pulpwood, wood chips, mobile homes, nursery stock, and Christmas trees) may only be moved interstate from a generally infested area if they are accompanied by a certificate or limited permit issued by an inspector. However, logs, wood chips, and pulpwood may be moved without a certificate or limited permit if the person moving the articles attaches a statement to the waybill stating that he or she has inspected the articles and has found them free of all life stages of the gypsy moth. This exception minimizes the costs of moving logs, pulpwood, and wood chips interstate. Regulated articles may also be moved interstate from a generally infested area without a certificate if they are moved by the U.S. Department of Agriculture for experimental or scientific purposes and they are accompanied by a permit issued by the Administrator of the Animal and Plant Health Inspection Service.

Persons moving regulated articles interstate from a generally infested area may obtain a certificate or limited permit from an inspector or a qualified certified applicator. Inspectors will issue these documents at no charge, but costs may result from delaying the movement of commercial articles while waiting for the inspection. Certificates for interstate movement of mobile homes from a generally infested area may also be obtained from qualified certified applicators.

When inspection of regulated articles or OHA's reveals gypsy moth, treatment is often necessary. The preferred treatment, scraping egg masses and spraying caterpillars, costs \$10 to \$30 per shipment on average. Fumigation is another alternative, but it is more expensive, at \$75 to \$100 per shipment, and it may damage the shipment. Treatment is done by qualified certified applicators, most of which are small businesses. These businesses might

experience a slight increase in income as a result of the interim rule.

Nurseries and Christmas tree growers that move a substantial number of shipments interstate from the generally infested areas would be able to minimize treatment costs by treating their premises for gypsy moths under a compliance agreement with USDA. Treatment would cost businesses between \$10 and \$20 per acre. This alternative would enable nurseries and Christmas tree growers to issue their own certificates for interstate shipments and would be less costly than treating individual shipments. The entities that would be most likely to choose this alternative are nurseries that move a substantial number of shipments interstate from the generally infested areas and that treat their premises for other pests in addition to the gypsy moth. Producers that do not operate under a compliance agreement with APHIS, but that treat their premises under this option, would receive certification for each shipment from an inspector.

There are approximately 687 entities in the newly regulated areas that will incur costs from the interim rule. These entities include 286 nurseries, 179 Christmas tree growers, 85 loggers, and 41 sawmills. The vast majority of these entities are small businesses.

Approximately 100 of the affected entities are in Indiana. These entities include 70 nurseries, 20 loggers, and 10 Christmas tree growers. Nurseries in Indiana sold an average of \$127,206 worth of crops in 1997, and Christmas tree growers had average sales of \$16,332. Average sales figures for loggers and sawmills in Indiana are not available, but nationwide, loggers and sawmills averaged sales of \$3.3 million in 1992. Only about 10 percent of the affected entities' shipments are expected to leave the generally infested area, and only half of those, or 5 percent overall, will require treatment.

Approximately 187 of the affected entities are in Michigan. There are approximately 19 nurseries and 168 Christmas tree growers in the newly regulated areas. We do not expect that any treatments will be necessary for shipments from the newly regulated areas in Michigan because gypsy moth populations are low in those areas due to climatic conditions. However, time, salary, and recordkeeping costs for self-inspections will be incurred for shipments leaving the regulated areas. We estimate that 50 percent of the Christmas trees, 20 percent of the logs, and less than 2 percent of the nursery stock produced in the newly regulated areas are shipped interstate to

noninfested areas. Nurseries and Christmas tree growers will also incur a \$30 per acre fee for gypsy moth inspections, which are mandated by the State as a licensing requirement. This inspection fee represents about 1.5 percent of the average per-acre value of sales of harvested cut Christmas trees in Michigan in 1997.

Approximately 240 of the affected entities are in Ohio, including 135 nurseries, at least 96 Christmas tree growers, and 9 sawmills. Nurseries in the newly regulated areas had average sales of \$19,218 in 1997, while Christmas tree growers averaged \$22,505. Sawmills averaged \$1.7 million in shipments in 1992, indicating that at least some of them are not small businesses. We do not know how many shipments are likely to be shipped out of the newly regulated areas in Ohio.

There are approximately 98 affected entities in Virginia and 62 affected entities in Wisconsin. However, we do not anticipate any additional costs for entities in the newly regulated areas in Virginia and Wisconsin since they do not send shipments interstate from the generally infested areas.

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.

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 64 FR 40509–40511 on July 27, 1999.

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).

Done in Washington, DC, this 4th day of February, 2000.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–3076 Filed 2–9–00; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 505

National Agricultural Library Fees for Loans and Copying

AGENCY: Agricultural Research Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is establishing a fee schedule for loans of materials, and establishing a fee schedule for copying of materials from the collections of the National Agricultural Library. Fees generated will be used to defray costs of document delivery and maintenance of the collection.

DATES: Effective April 1, 2000.

ADDRESSES: Address all correspondence to Eileen McVey, Access Services Librarian, Document Delivery Services Branch, National Agricultural Library, Agricultural Research Service, Room 300, 10301 Baltimore Ave., Beltsville MD 20705–2351. Telephone: 301–504–6503. Email: userfees@nal.usda.gov

FOR FURTHER INFORMATION CONTACT: Carol Ditzler, Head Document Delivery Services Branch, National Agricultural Library, Agricultural Research Service, Room 300, 10301 Baltimore Ave., Beltsville MD 20705–2351.

SUPPLEMENTARY INFORMATION: This rule was published as a proposed rule for comment on August 16, 1999. Two comments were received. One comment indicated that fee changes were reasonable and that the price increase was viewed as having a positive effect upon the ability of patrons to obtain materials. The second comment viewed the increase in fees as excessive in terms of photocopying. The National Agricultural Library believes the fees are comparable to those of other research libraries. A random sampling of 15 academic and research libraries that do charge flat fees indicated a photocopy charge that ranged from a low of \$8.00 when using OCLC IFM service to a high of \$25.00 for non-IFM requests. (IFM is a service provided by the Online Computer Library Center (OCLC) in Dublin, Ohio, which credits and debits charges for libraries that participate resulting in a reduction of costs for invoicing.) The library, therefore, considers a flat fee of \$13.00 for photocopies on the low side of a median cost for such services.

Classification

This rule has been reviewed under Executive Order 12866, and it has been