

Rules and Regulations

Federal Register

Vol. 77, No. 184

Friday, September 21, 2012

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. APHIS–2012–0003]

Asian Longhorned Beetle; Quarantined Areas in Massachusetts, Ohio, and New York

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 Asian longhorned beetle regulations by adding portions of Worcester County, MA, and Clermont County, OH, to the list of quarantined areas and by removing a portion of Suffolk County, NY, from the list of quarantined areas. The interim rule was necessary to prevent the artificial spread of Asian longhorned beetle to noninfested areas of the United States and to relieve restrictions on certain areas that were no longer necessary.

DATES: Effective on September 21, 2012, we are adopting as a final rule the interim rule published at 77 FR 31720–31722 on May 30, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulations, Permits and Manuals, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1236; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule¹ effective and published on May 30, 2012, in the *Federal Register* (77 FR 31720–31722,

Docket No. APHIS–2012–0003), we amended the Asian longhorned beetle regulations in 7 CFR part 301 by adding portions of Worcester County, MA, and Clermont County, OH, to the list of quarantined areas in § 301.51–3(c). In addition, the interim rule removed the villages of Bayshore, East Islip, and Islip Terrace in the Town of Islip, Suffolk County, NY, from the list of quarantined areas in § 301.51–3(c) based on our determination that those areas meet our criteria for release from regulation. That action relieved restrictions that were no longer necessary on the interstate movement of regulated articles from that area.

Comments on the interim rule were required to be received on or before July 30, 2012. We received no comments by that date. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 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.

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 77 FR 31720–31722 on May 30, 2012.

Done in Washington, DC, this 17th day of September 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–23353 Filed 9–20–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2011–0004]

RIN 0579–AD58

Plum Pox Compensation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the plum pox regulations to provide for the payment of compensation to eligible owners of non-fruit-bearing ornamental tree nurseries and to increase the amount of compensation that may be paid to eligible owners of commercial stone fruit orchards and fruit tree nurseries whose trees are required to be destroyed in order to prevent the spread of plum pox. The interim rule also provided updated instructions for the submission of claims for compensation. These changes were necessary to provide adequate compensation to persons who are economically affected by the plum pox quarantine and the associated State and Federal eradication efforts.

DATES: Effective on September 21, 2012, we are adopting as a final rule the interim rule published at 77 FR 5381–5385 on February 3, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, Plum Pox National Program Manager, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737–1231; (301) 851–2286.

SUPPLEMENTARY INFORMATION:

Background

The regulations in Subpart—Plum Pox (7 CFR 301.74 through 301.74–5), referred to below as the regulations, quarantine areas of the United States where plum pox has been detected and restrict the interstate movement of regulated articles (e.g., trees, seedlings, root stock, budwood, branches, twigs, and leaves of susceptible *Prunus* spp.) from quarantined areas to prevent the spread of plum pox virus (PPV) into uninfected areas of the United States.

In addition to the quarantine and interstate movement restrictions in the regulations, § 310.74–5 also provides for

¹ To view the interim rule, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0003>.

the payment of compensation to eligible owners of commercial stone fruit orchards, including direct marketers, and fruit tree nurseries. In an interim rule¹ effective and published in the **Federal Register** on February 3, 2012 (77 FR 5381–5385, Docket No. APHIS–2011–0004), we amended the plum pox regulations to provide for the payment of compensation to eligible owners of non-fruit-bearing ornamental tree nurseries and to increase the amount of compensation that may be paid to eligible owners of commercial stone fruit orchards and fruit tree nurseries whose trees are required to be destroyed in order to prevent the spread of plum pox. We also provided updated instructions for the submission of claims for compensation.

Comments on the interim rule were required to be received on or before April 3, 2012. We received three comments by that date. The comments were from a State agricultural agency, a fruit grower, and an organization of State plant regulatory agencies. Two commenters fully supported the action, with one of these commenters encouraging the expanded use of compensation for producers who sustain losses due to quarantine plant pests and regulatory actions associated with these pests.

The third commenter said that the interim rule makes reference to “commercial stone fruit orchards and fruit tree nurseries” without defining fruit tree nursery. The commenter also expressed concern that his fruit tree nursery does not qualify for compensation.

In § 301.74–5, paragraph (a)(2) describes the eligibility criteria for compensation for owners of fruit tree nurseries. Those eligibility criteria and the considerations in paragraph (b) that determine payment amounts specify that the plants affected by an emergency action notification are plants that have been produced for commercial sale, which is not the case in the situation described by the commenter.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the

purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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 77 FR 5381–5385 on February 3, 2012.

Done in Washington, DC, this 17th day of September 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–23356 Filed 9–20–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2009–0100]

RIN 0579–AD35

Irradiation Treatment; Location of Facilities in the Southern United States; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule that was published in the **Federal Register** on July 20, 2012, and effective on August 20, 2012, we amended the phytosanitary treatment regulations to, among other things, allow for irradiation treatment of mangoes from India upon arrival in the mainland United States rather than just at the point of origin. In the final rule, we neglected to amend the inspection requirements to address shipments that are treated upon arrival in the United States and not at the point of origin. This document corrects that error.

DATES: *Effective Date:* September 21, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. S. Gadh, Senior Risk Manager—Treatments, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2018.

SUPPLEMENTARY INFORMATION: The phytosanitary treatment regulations

contained in 7 CFR part 305 (referred to below as the regulations) set out the general requirements for performing treatments and certifying or approving treatment facilities for fruits, vegetables, and other articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture administers these regulations.

In a final rule¹ published in the **Federal Register** on July 20, 2012 (77 FR 4261–4265, Docket No. APHIS–2009–0100), with an effective date of August 20, 2012, we amended the regulations in § 319.56–46 to allow for irradiation treatment of mangoes from India upon arrival in the mainland United States rather than just at the point of origin.

Paragraph (c) of § 319.56–46 indicates that each consignment of mangoes must be inspected jointly by APHIS and the national plant protection organization (NPPO) of India as part of the required preclearance inspection activities.

Paragraph (e) of § 319.56–46 also indicates that joint inspection by APHIS and the NPPO of India is required.

While joint inspection and preclearance are practical when irradiation treatment is applied in the country of origin, it is more useful and cost effective for the NPPO of India to inspect the fruit in India and for APHIS to inspect the fruit upon arrival in the United States when irradiation treatment is applied in the United States. This also ensures compliance with the standard² of the International Plant Protection Convention, of which the United States is a contracting party, of applying the least restrictive measures resulting in the minimal impact to trade while effectively managing plant pest risks. We are therefore removing the words “jointly” and “preclearance” from § 319.56–46(c) and the word “jointly” from § 319.56–46(e) to allow inspections to occur separately in India and the United States when appropriate.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

¹ To view the final rule and related documents, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0100>.

² International Standard for Phytosanitary Measures (ISPM) Number 1. To view this and other ISPMs on the Internet, go to <http://www.ippc.int/IPP/En/default.jsp> and click on the “Adopted Standards” link under the “Core Activities” heading.

¹ To view the interim rule and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0004>.