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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02-053-2]

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 regulations by adding nine counties in Wisconsin to the list of generally infested areas based on the detection of infestations of gypsy moth in those counties. 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 gypsy moth to noninfested States.

EFFECTIVE DATE: The interim rule became effective on June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Weyman P. Fussell, Program Manager, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236; (301) 734-5705.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45-12 and referred to below as the regulations) restrict the interstate movement of regulated articles from generally infested areas to prevent the artificial spread of the gypsy moth.

In an interim rule effective and published in the **Federal Register** on

June 20, 2002 (67 FR 41809-41810, Docket No. 02-053-1), we amended the regulations in § 301.45-3 by adding Columbia, Florence, Forest, Green Lake, Jefferson, Langlade, Portage, Rock, and Wood Counties in Wisconsin to the list of generally infested areas based on the detection of infestations of gypsy moth in those counties.

Comments on the interim rule were required to be received on or before August 19, 2002. 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 regulations by adding nine counties in Wisconsin to the list of generally infested areas. As a result of the interim rule, the interstate movement of certain 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 effects of the interim rule on small entities, as required by the Regulatory Flexibility Act.

The interim rule placed restrictions on the interstate movement of regulated articles and outdoor household articles (OHA's) from and through those counties in Wisconsin that were designated as generally infested 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 into or through 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 the U.S. Department of Agriculture (USDA), inspect and issue certificates.

Generally, regulated articles (such as logs, pulpwood, wood chips, mobile homes, nursery stock, OHAs, 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 signed accurate statement to the waybill as specified in the Gypsy Moth Program Manual, 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 USDA for experimental or scientific purposes and they are accompanied by a permit issued by the Administrator of the Animal and Plant Health Inspection Service (APHIS).

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 the 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 the presence of gypsy moths, treatment is often necessary. The preferred treatment, scraping egg masses and spraying caterpillars, costs an average of \$10 to \$30 per shipment. Fumigation is another alternative, but it is more expensive, at \$75 to \$100 per shipment, and may damage the shipment. Treatment is done by qualified certified applicators, most of which are small businesses. These businesses might experience a small 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 APHIS. These treatments cost businesses between \$10 and \$20 per acre. This alternative allows nurseries and Christmas tree growers to issue their own certificates provided they are under a compliance agreement and is less costly than treating individual shipments. The entities most likely to choose this option are nurseries that move a substantial number of shipments interstate and treat their premises for other pests in addition to the gypsy moth. Producers that do not operate under a compliance agreement with APHIS, but treat their premises under this option, would receive certification for each shipment from an inspector.

The economic effects of the interim rule will likely vary, depending on the size of the entities affected, the levels of infestation, and the size and number of shipments to noninfested areas. There are approximately 146 nurseries and Christmas tree growers that will incur costs from the interim rule in eight of the nine counties added to the list of generally infested areas (data are not available for Florence County). According to the size standards established by the Small Business Administration, all of these businesses are considered small entities. No information is available concerning the percentage of shipments moved by those entities into or through noninfested areas. Data on shipments of regulated articles from other generally infested areas in Wisconsin indicate that few shipments are moved from those areas into or through noninfested areas. If this pattern holds, little or no additional costs would be incurred by many of the 146 establishments as a result of the interim rule.

The regulatory requirements imposed by the interim rule are expected to cause a slight increase in costs for the affected entities. The relative negative impact that may result from the interim rule is very small when compared with the potential for harm to related industry and the U.S. economy as a whole resulting from the further spread of the pest. Since the total value of the regulated articles moved from infested to noninfested areas is a small fraction of the national total, the effect on national prices is expected to be slight. Additionally, since the rule is not prohibitive, articles that meet the requirements of the regulations would continue to enter the market. Therefore,

the overall impact upon price and competitiveness is expected to be relatively insignificant.

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 67 FR 41809–41810 on June 20, 2002.

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

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

Done in Washington, DC, this 31st day of October 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–28157 Filed 11–5–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–42–AD; Amendment 39–12936; AD 2002–17–51]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2002–17–51, which was sent previously to all known U.S. owners and operators of Agusta S.p.A. (Agusta) helicopters by individual letters. This AD requires installing a placard in the helicopter and marking the airspeed indication at 140 knots indicated airspeed (KIAS) to

indicate a reduction in the helicopter never-exceed speed (Vne) of 28 KIAS; visually checking the tail rotor blades on both sides for a crack before each start of the helicopter engines; visually inspecting the tail rotor blades with a 5x or higher magnifying glass at certain time intervals and anytime an increase in vibration occurs, and conducting a dye-penetrant inspection if necessary; and replacing any cracked tail rotor blade with an airworthy tail rotor blade. The actions specified by this AD are intended to prevent failure of the tail rotor blade and subsequent loss of control of the helicopter.

EFFECTIVE DATE: Effective November 21, 2002, to all persons except those persons to whom it was made immediately effective by Emergency AD 2002–17–51, issued on August 19, 2002, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 21, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 6, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–42–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The applicable service information may be obtained from Agusta, 21017 Cascina Costa di Samarate (VA) Italy, Via Giovanni Agusta 520, telephone 39 (0331) 229111, fax 39 (0331) 229605–222595. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5490, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On July 9, 2002, the FAA issued Emergency AD 2002–14–51, Docket 2002–SW–35–AD, which applied to Agusta Model A109E and A119 helicopters. That AD required, before each flight, visually checking each tail rotor blade on both sides for a crack. That AD also required, within 5 hours TIS and thereafter at