

(c) * * *

Maryland*Charles County.* The entire county.

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Michigan

Upper Peninsula: * * *

Delta County. The entire county.*Houghton County.* The entire county.*Keweenaw County.* The entire county.*Mackinac County.* The entire county.*Schoolcraft County.* The entire county.

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Minnesota*Houston County.* The entire county.**Missouri***Wayne County.* The entire county.

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Pennsylvania*Allegheny County.* The entire county.*Beaver County.* The entire county.*Butler County.* The entire county.*Lawrence County.* The entire county.*Mercer County.* The entire county.*Mifflin County.* The entire county.**Virginia***City of Alexandria.* The entire city.*City of Fairfax.* The entire city.*City of Falls Church.* The entire city.*City of Manassas.* The entire city.*City of Manassas Park.* The entire city.*Arlington County.* The entire county.*Fairfax County.* The entire county.*Fauquier County.* The entire county.*Loudon County.* The entire county.*Prince William County.* The entire county.**West Virginia***Fayette County.* The entire county.**Wisconsin***Crawford County.* The entire county.*Fond du Lac County.* The entire county.*Ozaukee County.* The entire county.*Sheboygan County.* The entire county.*Vernon County.* The entire county.*Washington County.* The entire county.

Done in Washington, DC, this 15th day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-22635 Filed 9-18-09; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****7 CFR Part 301****[Docket No. APHIS-2008-0083]****Gypsy Moth Generally Infested Areas; Illinois, Indiana, Maine, Ohio, and Virginia**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the gypsy moth regulations by adding areas in Illinois, Indiana, Maine, Ohio, and Virginia to the list of generally infested areas based on the detection of infestations of gypsy moth in those areas. As a result of this action, the interstate movement of regulated articles from those areas is restricted. This action is necessary to prevent the artificial spread of the gypsy moth to noninfested areas of the United States. **DATES:** This interim rule is effective September 21, 2009. We will consider all comments that we receive on or before November 20, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0083> to submit or view comments and to view supporting and related material available electronically.

- *Postal/Mail/Commercial Delivery:* Please send two copies of your comments to Docket No. APHIS-2008-0083, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket APHIS-2008-0083.

Reading Room: 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Weyman Fussell, Program Manager,

Gypsy Moth, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737-1236; (301) 734-5705.

SUPPLEMENTARY INFORMATION:**Background**

The gypsy moth (*Lymantria dispar*) 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 accordance with § 301.45-2 of the regulations, generally infested areas are, with certain exceptions, those States or portions of States in which a gypsy moth general infestation has been found by an inspector, or each portion of a State that the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Less than an entire State will be designated as a generally infested area only if: (1) The State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of such articles; and (2) the designation of less than the entire State as a generally infested area will be adequate to prevent the artificial interstate spread of infestations of the gypsy moth.

Designation of Areas as Generally Infested Areas

Section 301.45-3 of the regulations lists generally infested areas. In this rule, we are amending § 301.45-3(a) by adding 3 counties in Illinois, 1 county in Indiana, 34 townships in Maine, 1 county in Ohio, and 1 county in Virginia to the list of generally infested areas. As a result of this rule, the interstate movement of regulated articles from these areas will be restricted.

We are taking this action because, in cooperation with the States of Illinois, Indiana, Maine, Ohio, and Virginia, the United States Department of Agriculture conducted surveys that detected multiple life stages of the gypsy moth in Cook, Du Page, and McHenry Counties, IL; St. Joseph County, IN; several townships in Aroostook, Franklin, Penobscot, Piscataquis, and Somerset Counties, ME; Morrow County, OH; and Montgomery County, VA. Based on these surveys, we determined that reproducing populations exist at

significant levels in these areas. Eradication of these populations is not considered feasible because these are immediately adjacent to areas current recognized as generally infested and are, therefore, subject to reinfestation.

Emergency Action

This rulemaking is necessary on an emergency basis because of the possibility that the gypsy moth could be artificially spread to noninfested areas of the United States, where it could cause economic losses due to the defoliation of susceptible forest and shade trees. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). 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.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This interim rule amends the gypsy moth regulations by adding areas in Illinois, Indiana, Maine, Ohio, and Virginia to the list of generally infested areas based on the detection of infestations of gypsy moth in those areas. As a result of this action, the interstate movement of regulated articles from those areas is restricted.

We have prepared an economic analysis for this interim rule. The analysis, which considers the number and types of entities that are likely to be affected by this action and the potential economic effects on those entities, provides the basis for the Administrator's determination that the rule will not have a significant economic impact on a substantial number of small entities. The economic analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov). Copies of the economic analysis are also available from the person listed under **FOR FURTHER INFORMATION CONTACT**.

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.

Paperwork Reduction Act

This interim rule contains no new 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. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

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

■ 2. In § 301.45–3, paragraph (a) is amended as follows:

■ a. Under the heading Illinois, by adding, in alphabetical order, entries for Cook County, Du Page County, and McHenry County to read as set forth below.

■ b. Under the heading Indiana, by adding, alphabetical order, an entry for St. Joseph County to read as set forth below.

■ c. Under the heading Maine, by revising the entries for Aroostook County, Franklin County, Penobscot County, Piscataquis County, and Somerset County to read as set forth below.

■ d. Under the heading Ohio, by adding, in alphabetical order, an entry for Morrow County to read as set forth below.

■ e. Under the heading Virginia, by adding, in alphabetical order, an entry for Montgomery County to read as set forth below.

§ 301.45.3 Generally infested areas.

(a) * * *

Illinois

Cook County. The entire county.

Du Page County. The entire county.

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McHenry County. The entire county.

Indiana

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St. Joseph County. The entire county.

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Maine

Aroostook County. The townships of Glenwood Plantation, Houlton, New Limerick, Orient, Amity, Cary Plantation, Dyer Brook, Haynesville, Hodgdon, Linneus, Oakfield, Forkstown, Township of T2 R4 WELS, Township of T3 R3 WELS, Township of T4 R3 WELS and Township of TA R2 WELS.

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Franklin County. Eustis area.

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Penobscot County. Pattern area.

Piscataquis County. The townships of Shirley, Elliotville, Greenville, T7R9 NWP, Katahdin Iron Works, TBR11 WELS, TBR10 WELS, TAR11 WELS, TAD10 WELS, Veazie Gore, T1R11 WELS, T1R10 WELS, and TrR10 WELS.

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Somerset County. The Township of East Moxie.

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Ohio

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Morrow County. The entire county.

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Virginia

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Montgomery County. The entire county.

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Done in Washington, DC, this 15th day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–22634 Filed 9–18–09; 8:45 am]

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