

of the 693 million ash trees grown on timberland in Michigan is \$18.92 billion, and the corresponding nationwide estimate amounts to 7,553 million trees, valued at \$282.26 billion. There are approximately 31 million ash trees in the 6 counties first quarantined by the State.

When conservatively valued in terms of stumpage prices, the value of sawtimber at risk in the eastern United States alone amounts to \$25 billion. Over 4,000 businesses that are considered small by SBA standards are affected in the 6 counties first quarantined because of EAB in Michigan. However, very few nursery operations having a substantial amount of ash nursery stock in the ground are expected to be significantly affected. Overall, this rule will help safeguard U.S. ash trees from the EAB by restricting the interstate movement of the nursery stock, logs, and lumber that can serve as its vectors. Although, at this time, we are not able to evaluate the specific effects of this regulation on the seven counties most recently added to Michigan's EAB quarantine, we expect that those counties contain entities similar to those we have considered in this analysis. Therefore, we believe any economic effects on small entities will be small and are outweighed by the benefits associated with preventing a larger U.S. EAB infestation.

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.

#### 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

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim

rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579-0233 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 02-125-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 02-125, and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations quarantining 13 counties in Michigan because of the emerald ash borer and restricting the interstate movement of regulated articles from these quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of Michigan to noninfested areas of the United States. The paperwork associated with the Emerald ash borer program will include the completion of compliance agreements, certificates, and limited permits. There will also be requests for inspections. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.48 hours per response.

*Respondents:* Growers, packers, shippers, and exporters of regulated

articles and State plant health protection authorities and other cooperators.

*Estimated annual number of respondents:* 225.

*Estimated annual number of responses per respondent:* 1.6666.

*Estimated annual number of responses:* 375.

*Estimated total annual burden on respondents:* 180 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

#### 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; 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*).

■ 2. Part 301 is amended by adding a new "Subpart—Emerald Ash Borer," §§ 301.53-1 through 301.53-9, to read as follows:

#### Subpart—Emerald Ash Borer

Sec.  
301.53-1 Definitions.  
301.53-2 Regulated articles.  
301.53-3 Quarantined areas.

- 301.53-4 Conditions governing the interstate movement of regulated articles from quarantined areas.
- 301.53-5 Issuance and cancellation of certificates and limited permits.
- 301.53-6 Compliance agreements and cancellation.
- 301.53-7 Assembly and inspection of regulated articles.
- 301.53-8 Attachment and disposition of certificates and limited permits.
- 301.53-9 Costs and charges.

### Subpart—Emerald Ash Borer

#### § 301.53-1 Definitions.

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any individual authorized to act for the Administrator.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

*Certificate.* A document that is issued for a regulated article by an inspector or by a person operating under a compliance agreement and that represents that such article is eligible for interstate movement in accordance with § 301.53-5(a).

*Compliance agreement.* A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

*Emerald ash borer.* The insect known as emerald ash borer (*Agrilus planipennis* [Coleoptera: Buprestidae]) in any stage of development.

*Infestation.* The presence of the emerald ash borer or the existence of circumstances that make it reasonable to believe that the ash borer is present.

*Inspector.* Any employee of the Animal and Plant Health Inspection Service, or other individual authorized by the Administrator to enforce the provisions of this subpart.

*Interstate.* From any State into or through any other State.

*Limited permit.* A document in which an inspector or a person operating under a compliance agreement affirms that the regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

*Moved (movement, move).* Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

*Person.* Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

*Quarantined area.* Any State, or any portion of a State, listed in § 301.53-3(c) or otherwise designated as a quarantined area in accordance with § 301.53-3(b).

*Regulated article.* Any article listed in § 301.53-2(a) or otherwise designated as a regulated article in accordance with § 301.53-2(b).

*State.* The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

#### § 301.53-2 Regulated articles.

The following are regulated articles:

(a) The emerald ash borer; firewood of all hardwood species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*.

(b) Any other article, product, or means of conveyance not listed in paragraph (a) of this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

#### § 301.53-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State or each portion of a State in which the emerald ash borer has been found by an inspector, in which the Administrator has reason to believe that the emerald ash borer is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where emerald ash borer has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of the emerald ash borer.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give

written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (c) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas:

Michigan

*Genesee County.* The entire county.

*Ingham County.* The entire county.

*Jackson County.* The entire county.

*Lapeer County.* The entire county.

*Lenawee County.* The entire county.

*Livingston County.* The entire county.

*Macomb County.* The entire county.

*Monroe County.* The entire county.

*Oakland County.* The entire county.

*Shiawassee County.* The entire county.

*St. Clair County.* The entire county.

*Washtenaw County.* The entire county.

*Wayne County.* The entire county.

#### § 301.53-4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Regulated articles may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.53-5 and 301.53-8;

(b) Without a certificate or limited permit if:

(1) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or

(2) The regulated article originates outside the quarantined area and is moved interstate through the quarantined area under the following conditions:

(i) The points of origin and destination are indicated on a waybill accompanying the regulated article; and

(ii) The regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40 °F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

(iii) The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity.

**§ 301.53-5 Issuance and cancellation of certificates and limited permits.**

(a) An inspector<sup>1</sup> or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

(1)(i) Is apparently free of EAB, based on inspection; or the article or

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading EAB; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>2</sup> in order to prevent the artificial spread of emerald ash borer; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

(b) An inspector or a person operating under a compliance agreement will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed on the limited permit), and this interstate movement will not result in the spread of emerald ash borer because emerald ash borer will be destroyed by the specific processing, handling, or utilization; and

<sup>1</sup> Inspectors are assigned to local offices of APHIS, which are listed in the local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236.

<sup>2</sup> An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 423 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) in order to prevent the spread of emerald ash borer; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.53-6 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of paragraph (a) or (b), respectively, of this section.

(d) Any certificate or limited permit may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose certificate or limited permit has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

(Approved by the Office of Management and Budget under control number 0579-0233)

**§ 301.53-6 Compliance agreements and cancellation.**

(a) Persons engaged in growing, handling, or moving regulated articles interstate may enter into a compliance agreement<sup>3</sup> if such persons review with

<sup>3</sup> Compliance agreements may be initiated by contacting a local office of APHIS. The addresses and telephone numbers of local offices are listed in local telephone directories and may also be

an inspector each provision of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

(Approved by the Office of Management and Budget under control number 0579-0233)

**§ 301.53-7 Assembly and inspection of regulated articles.**

(a) Persons requiring certification or other services must request the services from an inspector<sup>4</sup> at least 48 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner that the inspector designates as necessary to comply with this subpart.

(Approved by the Office of Management and Budget under control number 0579-0233)

**§ 301.53-8 Attachment and disposition of certificates and limited permits.**

(a) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the interstate movement of a regulated article securely attached at all times during interstate movement to:

- (1) The regulated article;
- (2) The container carrying the regulated article; or

obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, MD 20737-1236.

<sup>4</sup> See footnote 1 to § 301.53-5.

(3) The consignee's copy of the accompanying waybill: *Provided*, that the description of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the destination of the shipment.

(Approved by the Office of Management and Budget under control number 0579-0233)

#### **§ 301.53-9 Costs and charges.**

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Done in Washington, DC, this 8th day of October, 2003.

**Peter Fernandez,**

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

[FR Doc. 03-25881 Filed 10-10-03; 8:45 am]

BILLING CODE 3410-34-P

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **7 CFR Part 301**

[Docket No. 03-032-3]

#### **Sapote Fruit Fly**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rules as final rule.

**SUMMARY:** We are adopting as a final rule, without change, two interim rules regarding sapote fruit fly. The first interim rule established regulations restricting the movement of regulated articles from a newly established quarantined area in Hidalgo County, TX. The second interim rule removed the quarantine on that portion of Hidalgo County, TX, and thus removed the restrictions on the interstate movement of regulated articles from that area. The first interim rule was necessary to prevent the spread of sapote fruit fly to noninfested areas of the United States, and the second interim rule was necessary to reflect our determination that the sapote fruit fly had been eradicated from Hidalgo County, TX.

**EFFECTIVE DATE:** The first interim rule became effective on May 2, 2003, and the second interim rule became effective on July 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737-1236; (301) 734-8247.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In an interim rule effective May 2, 2003, and published in the **Federal Register** on May 8, 2003 (68 FR 24605-24613, Docket No. 03-032-1), we amended the Domestic Quarantine Notices in 7 CFR part 301 by adding a new "Subpart—Sapote Fruit Fly" (§§ 301.99 through 301.99-10, referred to below as the regulations). The regulations designated a portion of Hidalgo County, TX, as a quarantined area because of an infestation of sapote fruit fly and restricted the interstate movement of regulated articles from the quarantined area.

In a second interim rule effective July 15, 2003, and published in the **Federal Register** on July 22, 2003 (68 FR 43285-43286, Docket No. 03-032-2), we amended the regulations by removing the quarantine on a portion of Hidalgo County, TX, and removing restrictions on the interstate movement of regulated articles from that area based on our determination that the sapote fruit fly had been eradicated from that area. Upon the effective date of our July 2003 interim rule, there were no longer any areas in the continental United States quarantined for the sapote fruit fly.

Comments on each interim rule were required to be received on or before 60 days after the date of its publication in the **Federal Register**. We did not receive any comments on either of the interim rules. Therefore, for the reasons given in the interim rules, we are adopting the interim rules as a final rule.

This action also affirms the information contained in the interim rules 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 establishing "Subpart—Sapote Fruit Fly" (7 CFR 301.99 through 301.99-10)

that was published at 68 FR 24605-24613 on May 8, 2003, as amended by the interim rule published at 68 FR 43285-43286 on July 22, 2003.

**Authority:** 7 U.S.C. 7701-7772; 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 8th day of October, 2003.

**Peter Fernandez,**

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

[FR Doc. 03-25882 Filed 10-10-03; 8:45 am]

BILLING CODE 3410-34-P

## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 102**

RIN 3245-AE94

#### **Disclosure of Information Regulations**

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** SBA is adopting its proposed regulations implementing the Electronic Freedom of Information Act Amendments of 1996 (EFOIA) and updating SBA's FOIA regulations to conform to current law and procedure. SBA's amended regulations will make more information available electronically, give SBA more time to respond to certain requests, and increase processing fees to more accurately reflect the full cost of search and document review.

**DATES:** This rule is effective on November 13, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kitty Higgins, Paralegal Specialist, Freedom of Information/Privacy Acts (FOI/PA) Office, at 202-401-8203 or [foia@sba.gov](mailto:foia@sba.gov).

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) upon request to the contact person listed in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** On September 11, 2002, SBA issued a proposed rule to amend its Disclosure of Information regulations (13 CFR part 102, Subpart A) based on the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), 5 U.S.C. 552(a)(2), 67 FR 57539. EFOIA includes provisions authorizing or requiring agencies to promulgate regulations