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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 98-025-2]

#### 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 quarantine and regulations by adding 3 areas in Ohio and 14 areas in Wisconsin to the list of generally infested areas. The interim rule was necessary to prevent the artificial spread of gypsy moth to noninfested areas of the United States.

**EFFECTIVE DATE:** The interim rule was effective on May 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Coanne E. O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: coanne.e.o'hern@usda.gov.

#### SUPPLEMENTARY INFORMATION:

#### Background

In an interim rule effective and published in the **Federal Register** on May 11, 1998 (63 FR 25747-25748, Docket No. 98-025-1), we amended the gypsy moth quarantine and regulations in 7 CFR part 301 by adding 3 areas in Ohio and 14 areas in Wisconsin to the list in § 301.45-3(a) of generally infested areas.

Comments on the interim rule were required to be received on or before July 10, 1998. We received one comment by that date. The comment was from a

State government. The comment is discussed below.

The commenter did not oppose amending the gypsy moth quarantine and regulations by adding areas in Ohio and Wisconsin. However, the commenter suggested that the Animal and Plant Health Inspection Service review the current gypsy moth situation in Salt Lake County, UT. The commenter believed that Salt Lake County, UT, may have been prematurely removed from the gypsy moth quarantine and regulations in 1996. The commenter said that Utah's attempts at complete eradication of the gypsy moth have been unsuccessful, and populations of the gypsy moth still infest Salt Lake County, UT. We are currently reviewing the gypsy moth situation in the State of Utah and if we find that there is an infestation of gypsy moth in that State, we will publish an interim rule in the **Federal Register** adding any affected areas in Utah to the list of generally infested areas for gypsy moth.

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 Orders 12866, 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 document affirms an interim rule that amended the gypsy moth quarantine and regulations by adding 3 areas in Ohio and 14 areas in Wisconsin to the list of generally infested areas. This action was necessary to prevent the artificial spread of gypsy moth to noninfested areas of the United States.

This action affects the interstate movement of regulated articles and outdoor household articles (OHA's) from and through gypsy moth regulated areas in Ohio and Wisconsin. There are several types of restrictions that apply to these newly quarantined areas in these States. These restrictions will have their primary impact on persons moving OHA's, nursery stock, 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 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 any life stage 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.

With two exceptions, regulated articles (for example, logs, pulpwood, and wood chips; mobile homes; and nursery stock) may not be moved interstate from a generally infested area to any area that is not generally infested unless they are accompanied by a certificate or limited permit issued by an inspector. The first exception is that a regulated article may be moved from a generally infested area without a certificate if it is moved by the USDA for experimental or scientific purposes and is accompanied by a permit issued by the Administrator of the Animal and Plant Health Inspection Service. The second exception is that logs, pulpwood, and wood chips may be moved without a certificate or limited permit if the person moving the articles attaches a statement with the waybill stating that he or she has inspected the articles and has found them free of any life stages of the gypsy moth. This exception minimizes costs with regard to logs, pulpwood, and wood chips.

Persons moving regulated articles interstate from a generally infested area to any area that is not generally infested 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. These documents may also be self-issued under a compliance agreement. 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. Treatment is done by qualified certified applicators, which are private businesses that charge, on the average, \$100 to \$150 to treat a shipment of articles. Most qualified certified applicators are small businesses. By declaring an area as a generally infested area, the regulations may increase business for qualified certified applicators located in generally infested areas. It is estimated that these businesses will average \$100 to \$150 per month in additional income per business. A few of the newly quarantined counties contain large urban areas that may have several hundred shipments annually containing OHA's that will require inspection to move interstate from the generally infested area. Thus, there will likely be a need to train additional qualified certified applicators in those areas.

There are approximately 268 entities in the newly quarantined areas that will incur costs from the interim rule. These entities include 118 nurseries, 28 loggers/sawmills, 35 Christmas tree growers, and 87 mobile home movers. All of these establishments are believed to be small entities. In 1992, there were approximately 4,020 shipments of shrubs and trees, nursery items, and Christmas trees that moved from the newly quarantined areas. Of these 4,020 shipments, only 1,080 shipments were to nonregulated areas. Establishments that do move shrubs and trees, nursery items, and Christmas trees from generally infested areas will need to be inspected, either by a State or APHIS inspector. If the inspection reveals signs of gypsy moth, the establishment will have to be treated in order to ship regulated articles outside the generally infested area. We estimate that, annually, approximately 8 percent of the shipments will require treatment, and that the average area to be treated will be 1,300 acres. At an average treatment cost of \$10 to \$20 per acre, we estimate the total annual cost to the establishments will be \$13,000 to \$26,000.

The Christmas tree industry and establishments that sell other forest products and that move their products interstate from the newly quarantined areas will also bear direct costs from the interim rule. There are approximately 268 farms that sell forest products and Christmas trees in the newly quarantined areas. These account for 3.8 percent of the total number of such farms in Ohio and Wisconsin. All of these establishments are believed to be small entities. Services of an inspector

will be available without charge to inspect these farms and issue certificates and permits. We estimate that less than four percent of all these farms will be found to contain gypsy moth and, therefore, require treatment in order to ship trees. It is expected that, in most cases, Christmas tree farms will be free of gypsy moth and Christmas tree growers will meet the requirements for certification by having inspectors certify that the tree farms are free from gypsy moth. This alternative is less costly than inspecting or treating each individual shipment of trees and thus will minimize the economic impact of the change to the regulations for the newly quarantined 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 63 FR 25747–25748 on May 11, 1998.

**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 22nd day of December 1998.

**Joan M. Arnoldi,**

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

[FR Doc. 98–34524 Filed 12–29–98; 8:45 am]

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#### **DEPARTMENT OF JUSTICE**

#### **Immigration and Naturalization Service**

#### **8 CFR Part 217**

[INS No. 1799–96]

RIN 1115–AB93

#### **Finalizing Without Change the Interim Regulations that Added Visa Waiver Pilot Program Countries**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** The Visa Waiver Pilot Program (VWPP) permits nationals from designated countries who participate in the VWPP to apply for admission to the United States for ninety (90) days or less as nonimmigrant visitors for business or pleasure, without first obtaining a visa. During the past several years, the Immigration and Naturalization Service (Service) has published several interim regulations in the **Federal Register** adding countries to participate in the VWPP and eliminating probationary entry status. This final rule adopts without change those interim regulations.

**DATES:** This final rule is effective January 29, 1999.

#### **FOR FURTHER INFORMATION CONTACT:**

Dominica Gutierrez, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW, Room 4064, Washington, DC 20536, telephone number: (202) 514–3019.

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Law 99–603**

Section 313 of the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603, added section 217 to the Immigration and Nationality Act (Act), 8 U.S.C. 1187, which established the VWPP. That original provision authorized the participation of eight countries in the Pilot Program. Accordingly, the Service initially designated the United Kingdom, Japan, France, Switzerland, Germany, Sweden, Italy, and the Netherlands, as the eight (8) countries to participate in the VWPP.

#### **Public Law 101–649**

Section 210 of the Immigration Act of 1990 (IMMACT 90), Public Law 101–649, dated November 29, 1990, further amended the VWPP removing the eight-country cap and extending the provisions to all countries that met the qualifying provisions contained in section 217 of the Act. Accordingly, the Service, published six interim regulations in the **Federal Register** adding the following 18 countries: