

Beginning at the northwest corner of sec. 24, T. 33 S., R. 17 E.; then east along the northern boundary of sec. 24, T. 33 S., R. 17 E. (Bishop Harbor Road) until it becomes SR 683 (Moccasin Wallow Road); then east on SR 683 to the northeast boundary of sec. 22, T. 33 S., R. 18 E., then south along the eastern boundary of sec. 22, T. 33 S., R. 18 E. to 69th Street East; then east on 69th Street East to Erie Road; then south on Erie Road to U.S. Highway 301; then south on U.S. Highway 301 to Interstate 75; then south on Interstate 75 to the southern boundary of sec. 24, T. 35 S., R. 18 E.; then west along the southern boundaries of secs. 24, 23, and 22 to where the southern boundary of sec. 22 meets Whitfield Avenue; then west on Whitfield Avenue to U.S. Highway 301; then north on U.S. Highway 301 to SR 70; then west on SR 70 to U.S. Highway 41; then north on U.S. Highway 41 to where it becomes 14th Street West; then north on 14th Street West to 1st Avenue West; then east on 1st Avenue West to 9th Street West; then north on 9th Street West to the north bank of the Manatee River; then west along the north bank of the Manatee River to Terra Ceia Bay; then north along the western boundaries of secs. 25 and 24 to the point of the beginning.

That portion of the county bounded by a line drawn as follows: Beginning at the northwest corner of sec. 8, 9, 10, 11, and 12, T. 33 S., R. 21 E.; then east along sec. 8, 9, 10, 11, and 12, T. 33 S., R. 21 E., to sec. 12, T. 33 S., R. 21 E.; then south along sec. 12, T. 33 S., R. 21 E., to sec. 18, 19, 30, and 31, T. 33 S., R. 22 E.; then east along sec. 18, 19, 30, and 31, T. 33 S., R. 22 E., to sec. 6, T. 34 S., R. 22 E.; then south along sec. 6, T. 34 S., R. 22 E., to sec. 7, T. 34 S., R. 22 E.; then west along sec. 7, T. 34 S., R. 22 E., to sec. 12, 11, 10, and 9, T. 34 S., R. 21 E.; then south along sec. 12, 11, 10, and 9, T. 34 S., R. 21 E., to sec. 8 and 5, T. 34 S., R. 21 E.; then north along sec. 8 and 5, T. 34 S., R. 21 E., to sec. 31, 29, 20, 17, and 8, T. 33 S., R. 21 E.; then north along sec. 31, 29, 20, 17, and 8, T. 33 S., R. 12 E., to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 10th day of April 2002.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02-9208 Filed 4-15-02; 8:45 am]

BILLING CODE 3410-34-U

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 01-049-2]

#### 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 counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and 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.

**EFFECTIVE DATE:** The interim rule became effective on July 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247.

#### 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 certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In an interim rule effective and published in the **Federal Register** on July 17, 2001 (66 FR 37113-37114, Docket No. 01-049-1), we amended the regulations in § 301.45-3 by adding counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and Wisconsin to the list of generally infested areas. We also made nonsubstantive amendments in the entries for Maine, Virginia, West Virginia, and Wisconsin to address inconsistencies in the county listings and to correct misspellings.

Comments on the interim rule were required to be received on or before September 17, 2001. We did not receive any comments. Therefore, 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 the review process required by Executive Order 12866.

#### Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by adding counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and 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 effect 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 areas in Illinois, Indiana, Michigan, Ohio, West Virginia, and 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 U.S. Department of Agriculture (USDA), inspect and issue certificates.

Generally, regulated articles (such as logs, pulpwood, wood chips, mobile homes, nursery stock, 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 statement to the waybill 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 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 moth, treatment is often necessary. The preferred treatment, scraping egg masses and spraying caterpillars, costs \$10 to \$30 per shipment on average. Fumigation is another alternative, but it is more expensive, at \$75 to \$100 per shipment, and it may damage the shipment. Treatment is done by qualified certified applicators, most of which are small businesses. These businesses might experience a slight 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 USDA. These treatments cost businesses between \$10 and \$20 per acre. This alternative enables nurseries and Christmas tree growers to issue their own certificates for interstate shipments and is less costly than treating individual shipments. The entities that would be most likely to choose this alternative are nurseries that move a substantial number of shipments interstate from the generally infested areas and that treat their premises for other pests in addition to the gypsy moth. Producers that do not operate under a compliance agreement with APHIS, but that treat their premises under this option, would receive certification for each shipment from an inspector.

There are approximately 178 newly regulated nurseries and Christmas tree growers that will incur costs from the

interim rule. According to the size standards established by the Small Business Administration, the vast majority of these businesses are small entities.

The economic impact will vary by the size of the entities regulated, the levels of infestation, and the size and number of shipments to noninfested areas. There are 13 newly regulated Christmas tree growers in Illinois and 3 newly regulated Christmas tree growers in Indiana. Only about 10 percent of the shipments leave the regulated area from these establishments. Approximately 5 percent of the shipments from these establishments would require treatment at a cost of about \$45 per shipment. The cost of a small number of treatments would be small relative to the value of sales at these establishments. For example, the average farm selling cut Christmas trees in Indiana had sales of \$16,332 in 1997, according to the 1997 Census of Agriculture.

There are five newly regulated Christmas tree growers in Michigan. There were 830 commercial Christmas tree growers in 1999 with at least 5 acres of trees. The five newly regulated establishments represent 0.6 percent of the total Christmas tree growers in Michigan. Approximately 66 percent of Michigan Christmas trees are sent out of State, although not all of these shipments would be to destinations outside the regulated area. It is not known what percentage of shipments from the five newly regulated establishments would be to destinations outside the regulated area. None of the six affected counties have large Christmas tree operations. Treatment costs would be similar to the costs incurred in other States, about \$45 per shipment. The cost of any additional treatments needed would be small relative to the value of sales at these establishments. Christmas tree sales in Michigan were valued at \$41.0 million (wholesale value) in 1999, an average of \$49,397 per operation. Because inspections will still be needed on shipments leaving the regulated area, time, salary, and recordkeeping costs for self-inspections under compliance agreements will still be incurred. In addition, nurseries and Christmas tree growers will incur a \$30 per acre inspection fee specifically for inspections, which are a State licensing requirement. This inspection fee represents about 1.5 percent of the average per-acre dollar value of sales of harvested cut Christmas trees in Michigan in 1997.

There are 66 newly regulated Christmas tree growers in Ohio. While the number of shipments that will

require treatment is unknown, any treatments that do occur will likely cost around \$50 per shipment. The average farm selling cut Christmas trees in Ohio had sales of \$22,505 in 1997, according to the 1997 Census of Agriculture.

There are 38 newly regulated establishments in West Virginia (7 nurseries and 31 Christmas tree growers). Both nurseries and cut Christmas tree farms in West Virginia had average sales of less than \$20,000 in 1997.

There are 53 newly regulated establishments in Wisconsin (28 nurseries and 25 Christmas tree growers). It is estimated that these establishments make 34 shipments of nursery stock and 12 shipments of Christmas trees annually. However, few, if any, of these shipments leave the regulated area. Therefore, there should be no additional costs for these 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 that would result from the further spread of the pest. Since the total value of the regulated articles moved from infested areas to noninfested areas is a small fraction of the national total, the effect on national prices is expected to be very small. Additionally, since the rule is not prohibitive, articles that meet the requirements of the regulations would continue to enter the market. Thus, 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 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 66 FR 37113–37114 on July 17, 2001.

**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 11th day of April 2002.

**Bobby R. Acord,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–9210 Filed 4–15–02; 8:45 am]

**BILLING CODE 3410–34–U**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 72

[Docket No. 01–110–1]

#### Texas (Splenetic) Fever in Cattle; Incorporation by Reference

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Texas (splenic) fever in cattle regulations by updating the incorporation by reference of the Texas Animal Health Commission's regulations that contain the description of the areas in Texas quarantined because of ticks. This action is necessary to update the incorporation by reference to reflect the effective date of the current Texas Animal Health Commission's regulations that describe the quarantined area.

**DATES:** This interim rule is effective April 16, 2002. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of April 16, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by June 17, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–110–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–110–1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body

of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–110–1" on the subject line.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Dave Wilson, Senior Staff Entomologist, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 72, Texas (Splenetic) Fever in Cattle (referred to below as the regulations), restrict the interstate movement of cattle from areas quarantined because of ticks that are vectors of bovine babesiosis. This disease is referred to in the regulations as splenic or tick fever. Splenic or tick fever is a contagious, infectious, and communicable disease of cattle that causes cattle to become weak and dehydrated and can cause death.

Section 72.3 quarantines Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Previously, § 72.5 specifically described the area in Texas that was quarantined because of ticks. However, in a final rule published in the **Federal Register** on July 30, 1999 (64 FR 41265–41266, Docket No. 96–067–2), we replaced that description with an incorporation by reference of the Texas Animal Health Commission's (TAHC) regulations in § 41.2 of title 4, part II, Texas Administrative Code (4 TAC 41.2), that describe the quarantined area in Texas. The effective date of the TAHC regulations that we incorporated by reference was July 22, 1994.

On March 30, 2001, the TAHC published a document in the Texas Register (26 TexReg 2534) in which it adopted amendments to the tick quarantine zone described in 4 TAC 41.2. Those amendments became effective on April 8, 2001. Therefore, in order for our regulations to accurately

reflect the effective date of the current TAHC regulations in 4 TAC 41.2, we are amending the incorporation by reference in § 72.5 to specify the April 8, 2001, effective date of the current TAHC regulations.

#### Immediate Action

Immediate action is necessary to update the regulations to ensure that they accurately describe the areas of Texas quarantined because of ticks, which will help prevent the spread of splenic fever. 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 as a result of the comments.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The Animal and Plant Health Inspection Service's (APHIS) regulations in 9 CFR part 72 restrict the interstate movement of cattle from areas quarantined because of the presence of ticks that are vectors of bovine babesiosis, also known as splenic or tick fever. The TAHC's regulations in 4 TAC 41.2 describe the quarantined area in Texas; those TAHC regulations are incorporated by reference in APHIS' regulations in § 72.5.

This rule will update the incorporation by reference in § 72.5 so that it refers to the currently effective TAHC regulations describing the quarantined area in Texas. We do not expect this rule to have an economic effect on any entities, large or small, because the description of Texas' tick eradication areas is defined and established by the TAHC; this rule simply updates our regulations so they refer to the current description of those areas in the TAHC's regulations.

As of September 30, 2001, only 14 premises were quarantined by the TAHC. APHIS' regulations require that cattle from these premises be dipped,