

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 02–125–2]

#### Emerald Ash Borer; Quarantined Areas

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

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

**SUMMARY:** We are amending the emerald ash borer regulations by adding areas in Indiana, Michigan, and Ohio to the list of areas quarantined because of emerald ash borer. 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 this plant pest from infested areas in the States of Indiana, Michigan, and Ohio into noninfested areas of the United States.

**DATES:** This interim rule was effective December 28, 2004. We will consider all comments that we receive on or before March 7, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- **EDOCKET:** Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the “View Open APHIS Dockets” link to locate this document.

- **Postal Mail/Commercial Delivery:** Please send four copies of your comment (an original and three copies) to Docket No. 02–125–3, 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. 02–125–2.

- **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. 02–125–2” on the subject line.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–4387.

#### SUPPLEMENTARY INFORMATION:

##### Background

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

In an interim rule effective on October 8, 2003, and published in the **Federal Register** on October 14, 2003 (68 FR 59082–59091, Docket No. 02–125–1), we amended the Domestic Quarantine Notices in 7 CFR part 301 by adding a new “Subpart—Emerald Ash Borer” (§§ 301.53–1 through 301.53–9, referred

to below as the regulations). The regulations designated 13 counties in the southeastern portion of the State of Michigan as quarantined areas because of EAB and restricted the interstate movement of regulated articles from the quarantined areas.

##### Quarantined Areas

Recent surveys conducted by inspectors of State, county, and city agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that infestations of EAB have occurred outside the 13-county quarantined area in Michigan. Specifically, infestations of EAB have been detected in Berrien, Branch, Calhoun, Eaton, Kent, Roscommon, and Saginaw Counties, MI; LaGrange and Steuben Counties, IN; and Defiance, Fulton, Henry, and Lucas Counties, OH. Officials of the U.S. Department of Agriculture (USDA) and officials of State, county, and city agencies in Indiana, Michigan, and Ohio are conducting intensive survey and eradication programs in the infested areas. Indiana, Michigan, and Ohio have quarantined the infested areas and have restricted the intrastate movement of regulated articles from the quarantined areas to prevent the spread of EAB within each State. However, Federal regulations are necessary to restrict the interstate movement of regulated articles from the quarantined areas to prevent the spread of EAB to other States and other countries.

The regulations in § 301.53–3(a) provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, where EAB has been found by an inspector, where the Administrator has reason to believe that EAB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where EAB has been found.

Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made 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 the regulations 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 spread of the EAB.

In accordance with these criteria and the recent EAB findings described above, we are amending § 301.53–3(c) to add portions of Berrien, Branch, Calhoun, Eaton, Kent, Roscommon, and Saginaw Counties, MI; LaGrange and Steuben Counties, IN; and Defiance, Fulton, Henry, and Lucas Counties, OH, to the list of quarantined areas. An exact description of the quarantined areas can be found in the rule portion of this document.

#### *Regulated Articles*

In the October 2003 interim rule in which we established the EAB quarantine and regulations, we designated, among other things, firewood of all hardwood species as regulated articles. In that interim rule, we explained that we were designating all hardwood species as regulated articles because as hardwood is dried and cut into firewood, it is difficult to identify the species of the tree from which the firewood was derived.

In its State quarantine, Indiana refers to firewood of any non-coniferous species, rather than hardwood species, as a regulated article. While we consider the two terms to be essentially synonymous, we are adding the word “(non-coniferous)” after the word “hardwood” in the list of regulated articles in § 301.53–2(a) in response to a request from plant health officials in Indiana.

#### **Emergency Action**

This rulemaking is necessary on an emergency basis to help prevent the spread of EAB to noninfested areas of the United States. 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 rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget

has waived its review under Executive Order 12866.

We are amending the EAB regulations by adding areas in Indiana, Michigan, and Ohio to the list of quarantined 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 this plant pest into noninfested areas of the United States.

While most information about the effects of EAB are based on what has happened in Michigan where the initial U.S. outbreak occurred, similar effects can be expected anywhere the pest occurs.

EAB is a highly destructive, wood-boring insect pest that attacks several species of ash (*Fraxinus* spp.). White ash (*Fraxinus americana* L.), black ash (*Fraxinus nigra* Marsh.), and green ash (*Fraxinus pennsylvanica* Marshall.) are known to be susceptible in the United States; however, there are indications that other varieties of ash may also be at risk. Therefore, the regulations place restrictions on certain articles of the genus *Fraxinus*. If the EAB spreads from infested areas to the surrounding forests of the northeastern United States, where nursery, landscaping, and timber industries and forest-based recreation and tourism industries play a vital economic role, its impact would be severe.

The pest has the potential to destroy entire stands of ash, and any incursion of the pest can result in substantial losses to forest ecosystems, urban trees, and the timber industry. Adults bore D-shaped holes up to a diameter of 1 centimeter into sapwood, and these holes create pathways for pathogens and insect vectors. Domestically, black, green, and white ash serve as an important component in the forests of the northeast. Further, the wood is used for a variety of applications that require a strong, hard wood with less rigidity than maple.

White ash is one of the primary commercial hardwoods used for the production of tool handles, baseball bats, furniture, antique vehicle parts, containers, railroad cars and ties, canoe paddles, snowshoes, boats, doors, and cabinets. Green ash is a valued species for solid wood products, pulp and paper requiring hardwood fibers, crating, boxing, handle stock, and rough lumber. Black ash, while not as strong as other varieties, is regularly used for interior furnishings, furniture, and cabinets. Damage left by the EAB reduces the quality and market value of wood products, and dying and dead trees are useless for manufacturers.

Beyond manufacturing, ash trees play an important role in the urban landscape. Ash is known for its natural resistance to many other trees' pests and its hardiness in cities. Many of the ash trees that now serve as ornamental, street, shade, and landscape beautification trees were planted to replace elm trees destroyed because of Dutch elm disease. Ash trees are vital sources of food and shelter for wildlife and livestock, and they have been planted in the rehabilitation of damaged natural areas. Because of the EAB, these natural and aesthetic values are at risk in affected regions.

Damage to ash trees in the lots owned by the landscape industry and wood lots in southeast Michigan over the past 5 years is estimated at \$11.6 million. In Michigan and Canada, we estimate that between 250,000 and 2 million trees are already affected by the pest. In the six counties originally quarantined by the State of Michigan, 26.1 million trees are at risk, and the replacement value of those trees is estimated to be \$11.7 billion; this figure, of course, excludes their aesthetic, oxygen-producing, and habitat-providing values. Already, because of EAB infestation and subsequent damage and the effects of the quarantine placed by the State of Michigan, producers have lost approximately \$2 million in nursery stock sales. While ash species other than black, green, and white ash have not been attacked in North America, we believe the remaining 13 species may also be susceptible, and in 2002 the Canadian Food Inspection Agency confirmed that theory in the results of an EAB pest risk assessment. In Japan, EAB has also affected trees in the genera *Ulmus* (elms), *Juglans* (walnuts and butternuts), and *Pterocarya* (wingnuts).

The pattern and significant numbers of trees harmed or destroyed because of the pest suggest that EAB has been established in Michigan for at least 5 years, though it was definitively identified only in July 2002. We are not aware of the capability for EAB's natural spread in North America, and information on EAB biology in Asia is scarce. Studies on the pest in both North America and Asia are underway.

Current research suggests that EAB typically completes one generation per year in northeastern China and that females lay 68 to 90 eggs in their lifetime. Usually, trees die 2 to 4 years after an EAB attack. We know that adult beetles are capable of dispersing by flight in 8 to 12 meter bursts, and we are aware of EAB “bursting” distances of several kilometers in search of new ash host material. Since EAB appears to survive well in North American climatic

conditions, it is probable that EAB could continue to disperse among various contiguous corridors of host material in natural and urban environments. In northeastern China, EAB has successfully built severely damaging populations and traveled great distances in search of new hosts. Especially troubling in North America is the apparent lack of natural predators and other biological factors that would contribute to EAB mortality. A relative of EAB, the bronze birch borer (*Agilus axius*), is capable of a natural spread of 10 to 20 miles per year, and this might be a possible estimate of EAB's spreading capability.

The spread of EAB can be accelerated through human-assisted movement and trade of nursery stock, lumber, and logs. Solid wood packing materials (SWPM), especially if those materials include bark, pose a special concern. From 1985 to 2000, APHIS personnel reported 38 interceptions of species of the genus *Agilus* in shipments of SWPM at ports of entry in 11 different States, and those shipments originated in at least 11 countries. Since EAB larvae can overwinter in the sapwood they burrow into, it is uncertain whether debarking of lumber is an effective way to destroy the pest.

#### Specific Risks to Urban Forests

Urban areas of the United States cover approximately 3.5 percent of the total land area of the country, contain more than 75 percent of the population, and support an estimated 3.8 billion trees valued at \$2.4 trillion. Michigan's total urban tree population is estimated at 110,858,000 trees, and ash is a vital component of this urban forest. Trees in urban Michigan, like trees in any city, sequester gaseous air pollutants and particulate matter, help people conserve energy through the shade they provide, assist in the dispersal of storm water, provide protective shelter belts for urban fauna, and contribute aesthetic pleasure to the lives of city-dwellers and tourists. Field data from eight cities suggests that ash trees comprise up to 14 percent of the total leaf area of those cities.

#### Specific Risks to Timber

Within Michigan, there are 693 million EAB-susceptible trees grown on timberland, with an undiscounted compensatory value estimated at \$18.92 billion. In the 6 counties first quarantined by the State of Michigan, there are more than 31 million ash trees at risk. We are investigating possible monetary losses to forestry interests

based on stumpage<sup>1</sup> value. These losses are likely to be less than monetary losses based on compensatory value, since stumpage values are usually applied to older trees that are greater than 5 inches in diameter, and compensatory values are applied for trees greater than 1 inch in diameter. Should the EAB continue to spread or be artificially introduced to areas outside of Michigan, monetary losses could grow significantly. Ash trees for timber products are predominantly concentrated in the East, and available data on production volumes for ash were available only for this region.

In 1996, a net volume of 113,916 million board feet of ash sawtimber was grown in the Eastern region, comprising 7.5 percent of the volume of all hardwoods. The average stumpage price for sawtimber sold from national forests in 2000 was \$220.30 per 1,000 board feet for all eastern hardwoods.

Based on the establishment of the EAB in Michigan and its range in Asia, it should be able to survive in most of the eastern United States. In Michigan, an estimated 7.7 billion board feet of ash timber is harvested annually. A widespread outbreak in Michigan alone could see a loss of \$1.7 billion in timber trees.

#### Other Effects

We must also consider the value of ash trees as important environmental and recreational resources. The recreational use of national forest lands amounted to 341.2 million visitor days<sup>2</sup> in 1996, the most recent year for which data were available. In Michigan, 4.87 million visitor days were spent in the national forests in 1997. While not specifically attributable to the presence of ash trees, these statistics illustrate the importance of forest-based recreation in the United States. Ash trees are important components of U.S. forests; in addition to their aesthetic value, they provide food and shelter for wildlife. Citizens may also be affected by the presence of EAB in their own yards and neighborhoods. Removing dead or infested trees is costly and inconvenient, and replacement trees may have to grow for years before they offer the same amount of shade and ornamental value. Further, the

quarantine restricts people from freely moving firewood and ash products through Michigan.

Ash wood is used for all traditional applications of hardwood from flooring and cabinets to baseball bats. A viable portion of the market for ash in Ohio is centered around the tool handle market. Ohio has two major tool handle plants which receive approximately 25 percent of its ash from Ohio.

Ohio has approximately 2.1 billion board feet (the usable lumber within a log) of standing ash timber (between 11 and 29 inches in diameter) that is worth almost \$1 billion at the sawmill (USDA Forest Service).

#### Effects on Nursery Stock

An estimated \$2 million in annual nursery stock sales were lost in the six Michigan counties first quarantined by the State. The Michigan Nursery and Landscape Association reports that nursery, plant production, and landscaping industries employ 347,000 individuals and contribute \$3.7 billion to the State's economy. Michigan's nursery producers generate about \$711 million in annual sales and distribute their products to 35 U.S. States, Mexico, and Canada; these producers are the second largest agricultural group in Michigan and the fifth largest nursery industry in the United States. Losses could be larger if the EAB were allowed to spread to other areas of the country. We now know that EAB is capable of infesting small diameter nursery stock.

In Ohio, the nursery/horticulture and the wood/paper/furniture manufacturing industries contribute a combined \$15.5 billion to the State's economy. The horticulture and nursery segment employs 96,000 individuals according to the Ohio Nursery and Landscape Association. According to an Ohio State University estimate, 81,680 people are employed in wood, paper, and furniture manufacturing in Ohio. Ohio's nursery growers in 2003 estimated that ash trees contribute \$20 million (wholesale value) to Ohio's economy each year. According to the 2003–2004 Nursery Stock Survey, 17 different varieties of ash trees are currently in production in the State (<http://www.ohioagriculture.gov/pubs/divs/plnt/curr/eab/plnt-eab-economic.stm>).

#### Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification

<sup>1</sup> Stumpage value refers to the commercial value of trees standing in the forest. Stumpage prices may be offered in reference to board foot volume (\$/m.b.f.), weight (\$/ton), or truck loads (\$/load). (From: [http://extension.usu.edu/forestry/Management/Timber\\_Valueterms2Know.htm](http://extension.usu.edu/forestry/Management/Timber_Valueterms2Know.htm))

<sup>2</sup> A visitor day aggregates 12 visitor hours, which may entail 1 person visiting for 12 hours, 12 persons visiting for 1 hour, or any equivalent combination of individual or group use, either continuous or intermittent.

(NAICS) for determining which economic entities meet the definition of a small firm. The small entity size standard for nursery and tree production (NAICS code 11421) is \$750,000 or less in annual receipts, and \$5 million or less in annual receipts for forest nurseries and gathering of forest products (NAICS code 113210). The SBA classifies logging operations (NAICS code 113310), sawmills (NAICS code 321113), and wood product manufacturers generally (NAICS subsector 321) as small entities if fewer than 500 people are employed.

The number of firms considered small entities by the SBA that are affected within the counties or portions of counties quarantined for EAB is not known. These entities must meet certain requirements before moving regulated articles from the quarantined areas. Regulated entities may incur additional costs to dispose of articles such as wood debris from tree pruning and removal. Nurseries are currently prohibited from moving ash trees under State quarantines. Of the nurseries within the 6 counties originally quarantined in Michigan, only 10 to 20 operations having a substantial amount of ash nursery stock in the ground are expected to be significantly affected. These entities represent only 0.2 to 0.5 percent of the number of nurseries in the six counties first quarantined. Counties added to the quarantine by this rule are expected to have similar effects. Very few nursery operations having a substantial amount of ash nursery stock in the ground are expected to be significantly affected.

### Conclusions

Damage caused to EAB-affected ash trees in the landscape and woodlots in southeast Michigan over the past 5 years is estimated at \$11.6 million. In addition, \$2 million of nursery stock was restricted from sale due to the infestation. Similarly, estimates of the value of nursery stock in Ohio exceed \$15 billion. The monetary values at risk are \$11.7 billion in replacement costs in 6 counties first quarantined for EAB in Michigan; similar effects are expected for the newly quarantined areas.

Overall, this rule will help safeguard United States 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 rule on the counties most recently added to the 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

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; 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).

#### § 301.53–2 [Amended]

- 2. In § 301.53–2, paragraph (a) is amended by adding the word “(non-coniferous)” after the word “hardwood”.
- 3. In § 301.53–3, paragraph (c) is revised to read as follows:

#### § 301.53–3 Quarantined areas.

\* \* \* \* \*

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

- Indiana
  - LaGrange County.* Clay Township, Van Buren Township.
  - Steuben County.* Jamestown Township.
- Michigan
  - Berrien County.* St. Joseph area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Interstate 94 and Maiden Lane; then west on Maiden Lane to Red Arrow Highway; then west along an imaginary line along the south boundaries of properties known as Sunset Shores, Woodgate by the Lake, The Shores North, and Shoreham Condominiums to Lake Michigan; then northeast along the Lake Michigan shoreline to the St. Joseph River; then east along the southern shoreline of the St. Joseph River to the west channel shoreline; then southeast along the west channel shoreline to a point opposite of West May Street; then east along an imaginary line across the St. Joseph River to West May Street; then east on West May Street to Windsor Road; then south and east on Windsor Road to Colfax Avenue; then south on Colfax Avenue and continuing south along an imaginary line to Interstate 94 at a point near Hollywood Road; then southwest on Interstate 94 to the point of beginning.
  - Branch County.* Quincy area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of State Road and North Briggs Road; then south on North Briggs Road to East Central Road; then west on East Central Road to South Wood Road; then north on South Wood Road to Dorrance Road; then west on Dorrance Road to North Fiske Road; then north on North Fiske Road to State Road; then east on State Road to the point of beginning.
  - Calhoun County.* (1) Albion area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of 27 Mile Road and D Drive North; then east on D Drive North to the point where it intersects with the Calhoun/Jackson County line; then south from that point along an imaginary line to D Drive South; then west on D Drive South to 25½ Mile Road; then northeast on 25½ Mile Road to B Drive South; then west on B Drive South to 25½ Mile Road; then north on 25½ Mile Road to B Drive North; then east on B Drive North to 26½ Mile Road; then north on 26½ Mile Road to C Drive North; then east on C Drive North to 27 Mile Road; then north on 27 Mile Road to the point of beginning.

(2) Marshall area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of F Drive North and 15 Mile Road; then south on 15 Mile Road to C Drive North; then south from that point along an imaginary line to A Drive North; then east on A Drive North to West Hughes Street; then east on West Hughes Street to South Kalamazoo Street/M-227; then north on South Kalamazoo/M-227 to Old U.S. 27 North; then north on Old U.S. 27 North to F Drive North; then west on F Drive North to the point of beginning.

*Eaton County.* (1) Delta Township area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Nixon Road and Willow Highway; then east on Willow Highway to North Canal Road; then south on North Canal Road to East Saint Joseph Highway; then west on East Saint Joseph Highway to Upton Road; then north on Upton Road to East Saginaw Highway; then west on East Saginaw Highway to Nixon Road; then north on Nixon Road to the point of beginning.

(2) Pottersville area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Otto Road and East Gresham Highway; then east on East Gresham Highway to North Royston Road; then south on North Royston Road to Interstate 69; then south from that point along an imaginary line to the intersection of Vermontville Road and the southern portion of North Royston Road; then south on North Royston Road to Packard Highway; then west on Packard Highway to Otto Road; then north on Otto Road to the point of beginning.

*Genesee County.* The entire county.

*Ingham County.* The entire county.

*Jackson County.* The entire county.

*Kent County.* Kentwood/Wyoming area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of 36th Street SW. and Byron Center Avenue SW.; then east on 36th Street SW., across U.S. Highway 131, and continuing east on 36th Street SE. and 36th Street NW. to Eastern Avenue SE.; then south on Eastern Avenue SE. to 68th Street SW.; then west on 68th Street SW. to Burlingame Avenue SW.; then north on Burlingame Avenue SW. to 64th Street SW.; then west on 64th Street SW. to Byron Center Avenue SW.; then north on Byron Center Avenue SW. to the point of beginning.

*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.

*Roscommon County.* Saint Helen area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Marl Lake Road and North Saint Helen Road; then south on North Saint Helen Road to the School Road; then east on School Road to Meridian Road; then south on Meridian Road to Carter Lake Road; then west on Carter Lake Road to Michigan Route 76; then south on Michigan Route 76 to Interstate 75; then west on Interstate 75 to Maple Valley Road; then north on Maple Valley Road to its terminus; then north from the terminus of Maple Valley Road along the Higgins/Richland Townships boundary line across Lake St. Helen to the intersection of Richland Township, Sections 18 and 19, and Higgins Township, Sections 13 and 24; then east along the southern boundary of Higgins Township Section 18 to Moore Road; then north on Moore Road to Marl Lake Road, then east on Marl Lake Road to the point of beginning.

*Saginaw County.* (1) Saint Charles area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of South Raucholz Road and Marion Road; then east on Marion Road, across Michigan Route 52, then continuing east along an imaginary line to West Birch Run Road; then east on West Birch Run Road to Turner Road; then north on Turner Road to Ryan Road; then continuing north from that point along an imaginary line to the boundary line between Saint Charles Township and James Township; then west along the boundary line between Saint Charles Township and James Township to West Townline Road; then west on West Townline Road to South Raucholz Road; then south on South Raucholz Road to the point of beginning.

(2) Shields area: That portion of the county bounded by a line drawn as follows: Beginning at the intersection of Kennely Road and Geddes Road; then east on Geddes Road to North River Road; then south on North River Road and continuing on South River Road to Dutch Road; then west on Dutch Road to South Miller Road; then south on South Miller Road to Ederer Road; then west on Ederer Road to Van Wormer Road; then north on Van Wormer Road to Gratiot Road (Michigan Route 46); then west on Gratiot Road (Michigan Route 46) to Kennely Road; then north, west, and north on Kennely Road to the point of beginning.

*Shiawassee County.* The entire county.

*St. Clair County.* The entire county.

*Washtenaw County.* The entire county.

*Wayne County.* The entire county.

*Ohio*

*Defiance County.* Hicksville Township.

*Fulton County.* (1) That portion of Fulton Township east of Township Road 5.

(2) That portion of Swan Creek Township north of County Road B and east of County Road 5.

*Henry County.* That portion of Henry County east of State Route 109 and north of the Maumee River.

*Lucas County.* (1) That portion of Monclova Township west of Weckerly Road.

(2) That portion of Springfield Township west of Crissy Road.

(3) Swanton Township.

Done in Washington, DC, this 28th day of December 2004.

**Kevin Shea,**

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

[FR Doc. 05-38 Filed 1-3-05; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1486

**RIN 0551-AA62**

#### Emerging Markets Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes regulations applicable to the Emerging Markets Program (EMP). The regulations provide details concerning program administration, including participant eligibility, application requirements, review and allocation process, reimbursement rules and procedures, financial reporting and project evaluation requirements, appeal procedures, and program controls.

**DATES:** *Effective date:* February 3, 2005.

*Applicability date:* This rule does not apply to projects approved prior to the effective date.

**ADDRESSES:** Denise Huttenlocker, Director, Marketing Operations Staff, Foreign Agricultural Service, United States Department of Agriculture, 1400 Independence Avenue SW., Ag Box 1042, Room 4932-S, Washington, DC 20250-1042. Fax: (202) 720-9361; e-mail: [mosadmin@fas.usda.gov](mailto:mosadmin@fas.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Douglas Freeman by phone at (202) 720-4327, by fax at (202) 720-9361, or by e-mail at [emo@fas.usda.gov](mailto:emo@fas.usda.gov).