

include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

The Animal and Plant Health Inspection Service is removing grapefruit, sweet lime, sour orange, and sweet orange from the list of regulated articles in 7 CFR 301.98–2(b). Currently, the regulations restrict the interstate movement of these commodities from areas quarantined because of West Indian fruit fly.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities. The Small Business Administration (SBA) has established size standards for determining which economic entities are considered small. Entities that could potentially be affected by this rule include orange, sweet lime, and grapefruit growers. Growers of these fruits are considered small businesses by the SBA if their annual receipts are not more than \$750,000. According to the 2002 Census of Agriculture, 18,927 farms in the United States were growing the affected commodities for a total production value of \$1,830 million. About 98 percent of these farms were considered small, and large growers accounted for 54 percent of production.

Currently, no States or counties are quarantined for West Indian fruit fly. Therefore, the rule would have no impact on any potentially affected entity or on the supply or price of commodities. Instead, the rule will simply update the regulation.

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 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).

#### § 301.98–2 [Amended]

■ 2. In § 301.98–2, the list in paragraph (b)(1) is amended by removing the entries for “Grapefruit (*Citrus paradisi*)”, “Lime, sweet (*Citrus aurantifolia*)”, “Orange, sour (*Citrus aurantium*)”, and “Orange, sweet (*Citrus sinensis*)”.

Done in Washington, DC, this 20th day of April 2005.

**Elizabeth E. Gaston,**

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

[FR Doc. 05–8303 Filed 4–25–05; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 05–011–1]

#### Asian Longhorned Beetle; Removal of Regulated Areas

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

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

**SUMMARY:** We are amending the Asian longhorned beetle regulations by removing portions of Cook and DuPage Counties, IL, from the list of

quarantined areas and removing restrictions on the interstate movement of regulated articles from those areas. We have determined that the Asian longhorned beetle no longer presents a risk of spread from those areas and that the quarantine and restrictions are no longer necessary.

**DATES:** This interim rule was effective April 21, 2005. We will consider all comments that we receive on or before June 27, 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. 05–011–1, 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. 05–011–1.

- **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 on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael B. Stefan, Director, Pest Detection and Management Programs, Emergency Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–7338.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Asian longhorned beetle (ALB) (*Anoplophora glabripennis*), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of

hardwood trees. It attacks many healthy hardwood trees, including maple, horse chestnut, birch, poplar, willow, and elm. In addition, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and wood debris of half an inch or more in diameter are subject to infestation. The beetle bores into the heartwood of a host tree, eventually killing the tree. Immature beetles bore into tree trunks and branches, causing heavy sap flow from wounds and sawdust accumulation at tree bases. They feed on, and over-winter in, the interiors of trees. Adult beetles emerge in the spring and summer months from round holes approximately three-eighths of an inch in diameter (about the size of a dime) that they bore through branches and trunks of trees. After emerging, adult beetles feed for 2 to 3 days and then mate. Adult females then lay eggs in oviposition sites that they make on the branches of trees. A new generation of ALB is produced each year. If this pest moves into the hardwood forests of the United States, the nursery, maple syrup, and forest product industries could experience severe economic losses. In addition, urban and forest ALB infestations will result in environmental damage, aesthetic deterioration, and a reduction in public enjoyment of recreational spaces.

The ALB regulations in 7 CFR 301.51-1 through 301.51-9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States. Portions of Illinois, New Jersey, and New York are designated as quarantined areas. Quarantined areas are listed in § 301.51-3 of the regulations.

The regulations currently list two quarantined areas in Illinois. One, in Cook County, includes the Ravenswood community in the City of Chicago, and the other, in Cook and DuPage Counties, includes portions of O'Hare International Airport and its surrounding area.

Based on surveys conducted by inspectors of Illinois State and county agencies and by APHIS inspectors, we are removing from quarantine those areas in DuPage and Cook Counties and Chicago's Ravenswood area. The last findings of ALB in the regulated area in Park Ridge in Cook County was November 24, 2000. The last finding in the regulated area around O'Hare International Airport, including Bensenville, in DuPage County, was November 28, 2000. In Chicago's Ravenswood area, the last finding in the Kilbourn Park community was October

18, 1999, and the last finding in the Loyola community was March 8, 2001.

Since then, no evidence of ALB infestation has been found in these areas. Based on our experience, we have determined that sufficient time has passed without finding additional beetles or other evidence of infestation to conclude that ALB constitutes a negligible risk to those areas in Cook and DuPage Counties and the Kilbourn Park and Loyola communities in the Ravenswood area. Therefore, we are removing the entries for these areas from the list of quarantined areas in § 301.51-3(c). However, the Oz Park community in the City of Chicago, which falls within the larger Ravenswood area, remains under quarantine. A description of that quarantined area may be found in the regulatory text at the end of this document.

#### Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. 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 action 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

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This emergency situation makes timely compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a regulatory flexibility analysis.

#### 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 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).

■ 2. In § 301.51-3(c), under the heading "Illinois," the entry for Cook County is revised to read as follows and the entry for Cook and DuPage Counties is removed.

#### § 301.51-3 Quarantined areas.

\* \* \* \* \*  
(c) \* \* \*

#### Illinois

*Cook County.* That area in the Oz Park community in the City of Chicago that is bounded as follows: Beginning at the intersection of North Damen Avenue and West Addison Street; then east and east-northeast on West Addison Street to North Lake Shore Drive; then due east from that point to the Lake Michigan shoreline; then south along the Lake Michigan shoreline to a point due east of the intersection of North Lake Shore Drive and Chicago Avenue; then west from that point to the intersection of North Lake Shore Drive and Chicago Avenue; then west on Chicago Avenue to North Damen Avenue; then north on

North Damen Avenue to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 21st day of April 2005.

**Elizabeth E. Gaston,**

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

[FR Doc. 05-8302 Filed 4-25-05; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 945

[Docket No. FV05-945-1 FR]

#### **Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Relaxation of Handling Regulations**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule relaxes the minimum size requirement for all U.S. No. 2 grade non-red round potatoes handled under the marketing order for Idaho-Eastern Oregon potatoes to 1 $\frac{7}{8}$  inches minimum diameter. This relaxation in the handling regulations was unanimously recommended by the Idaho-Eastern Oregon Potato Committee (Committee), the agency responsible for local administration of the marketing order program in the designated production area. This change is intended to improve the marketing of Idaho-Eastern Oregon potatoes and increase returns to producers.

**EFFECTIVE DATE:** April 27, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Barry Broadbent, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington,

DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Marketing Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule relaxes the minimum size requirement for all U.S. No. 2 grade non-red round potatoes handled under the order to 1 $\frac{7}{8}$  inches minimum diameter. Currently, U.S. No. 2 grade round red-skinned potato varieties have to meet this requirement. The other U.S. No. 2 round varieties have to be 2 inches minimum diameter or 4 ounces minimum weight, provided that at least 40 percent of the potatoes in each lot have to be 5 ounces or heavier.

Sections 945.51 and 945.52 of the order provide authority for the establishment and modification of grade, size, quality, and maturity regulations applicable to the handling of potatoes. Section 945.341 establishes minimum grade, size, and maturity

requirements for potatoes handled subject to the order. In addition to the current minimum size requirement specifications mentioned in the previous paragraph, § 945.341 also allows potatoes that are U.S. No. 1 grade to meet a less stringent size B requirement (1 $\frac{1}{2}$  inches minimum and 2 $\frac{1}{4}$  inches maximum) as specified in the United States Standards for Grades of Potatoes (7 CFR 51.1540-51.1566).

At its meeting on November 4, 2004, the Committee unanimously recommended reducing the minimum size requirement for all varieties of U.S. No. 2 grade round potatoes to 1 $\frac{7}{8}$  inches minimum diameter.

Committee members stated that round potato production, particularly for non-red varieties, has been increasing in recent years. Non-red round potato varieties now make up a significant percentage of total round potato production. In the past, red-skinned varieties were essentially the only round varieties produced within the production area. Some new round varieties that have been introduced have skin colors such as white, yellow, gold, purple, blue, and pink.

Committee members believe that it is important that the handling regulations be changed to recognize the significant increase in the production of non-red varieties of round potatoes. They believe that relaxing the minimum size requirement for U.S. No. 2 grade round potatoes would enable handlers to market a larger portion of the crop in fresh market outlets and meet the needs of buyers.

According to the Committee, quality assurance is very important to the industry and to its customers. Providing the public with acceptable quality produce that is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. The Committee reports that potato size is important to buyers and that providing the sizes desired is important to promote sales. Buyers have indicated that 1 $\frac{7}{8}$  inches minimum diameter for all varieties of round potatoes is a desirable size.

This change is expected to improve the marketing of Idaho-Eastern Oregon potatoes and increase returns to producers.

This rule has no impact on potato imports covered by section 608e of the Act.

#### **Final Regulatory Flexibility Analysis**

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.